

STATE OF CALIFORNIA
RECLAMATION BOARD TRLIA SUBCOMMITTEE
MEETING

YUBA COUNTY GOVERNMENT CENTER
915 EIGHTH STREET
CONFERENCE ROOM #1
MARYSVILLE, CALIFORNIA

FEBRUARY 26, 2007

9:04 A.M.

KATHRYN S. KENYON, CSR
CERTIFIED SHORTHAND REPORTER
LICENSE NUMBER 13061

PETERS SHORTHAND REPORTING CORPORATION (916) 362-2345

APPEARANCES

RECLAMATION BOARD

Mr. Benjamin Carter, President
Mr. Butch Hodgkins, Vice President
Ms. Lady Bug Doherty, Secretary
Mr. Jay Punia, General Manager
Ms. Nancy Finch, Legal Counsel
Ms. Lorraine Pendlebury, Staff Assistant

THREE RIVERS LEVEE IMPROVEMENT AUTHORITY

Ms. Mary Jane Griego, Board Member
Mr. Dan Logue, Board Member
Mr. Paul Brunner, Executive Director
Mr. Scott Shapiro, Special Counsel
Mr. Ric Reinhardt, Program Manager

ALSO PRESENT

Mr. Rex Archer
Mr. Tom Ellis, U.S. Army Corps of Engineers
Mr. Tom Foley, CCRG
Mr. Tom Harris, Hofman Ranch
Ms. Frances Hofman
Mr. Rod Mayer, DWR
Mr. Bob Morrison, Bender Rosenthal

PETERS SHORTHAND REPORTING CORPORATION (916) 362-2345

APPEARANCES CONTINUED

Mr. Dale Nieschulz

Mr. Thomas Rice, Rice River Ranch

Mr. Dan Silva, Sutter County

Dr. Dale Smith, CCRG

Mr. Jeffrey Twitchell, Levee District 1 of Sutter County

PETERS SHORTHAND REPORTING CORPORATION (916) 362-2345

INDEX

	PAGE
1. Roll Call	
2. Approval of Agenda	
3. Status and Review of Three Rivers Levee Improvement Authority Projects	
1. Status of applicant's compliance with permit conditions	115
2. Status and plans for the Phase 4 of Feather River Improvement Program	8
3. Department of Water Resources' participation in the Phase 4 Feather River Improvement Program	55
4. Public Comments	135
5. Adjourn	153
Reporter's Certificate	154

1 PROCEEDINGS

2 VICE PRESIDENT HODGKINS: Okay. I want to thank
3 everybody for coming this morning. Sort of a beautiful
4 morning, at least. We're hoping that with the storms
5 we're seeing now, we'll catch up on the water supply. And
6 I at least am hoping I'm going to get a chance to go
7 skiing on real snow.

8 So we're here this morning. This -- as a way of
9 introduction, this is a subcommittee of the Reclamation
10 Board that has been trying to take a more in-depth
11 interest in the activities that are going on for the Three
12 Rivers Levee Improvement Authority's restoration of the
13 levees that are protecting Olivehurst, Linda, and of
14 course Plumas Lakes.

15 The primary reason we're here this morning is a
16 year ago, about, a little less than that, the Board agreed
17 that progress on the project was moving reasonably well.

18 This is a project that is funded primarily by a
19 combination of available state funds and money that's
20 being advanced, in effect, by the development community
21 who is in the process, obviously, of building houses in
22 the form of, really, cash advances against future revenues
23 that will come in, presumably, through the development
24 community, through the sale of these houses.

25 The situation I think that we are particularly

1 focused on here is when we modified the permit
2 requirements last spring to allow the -- a restriction on
3 building permits, that was initially put in place because
4 the nature of the project changed as the prior Reclamation
5 Board was moving forward with this, and there was more
6 work identified right at the end of the issuance of the
7 permit. And the Board didn't have time in issuing that
8 permit to stop everything, or didn't want to stop the
9 work, which is providing benefits not only for the new
10 homes but for Linda and Olivehurst as well, while we
11 waited for more detailed analysis of new problems, that
12 were sort of identified, at the last minute, along the
13 Feather River levees.

14 But at the time, the expectation was that the
15 likelihood would be that the Feather River levee would be
16 repaired in place. Although there was an awareness, I
17 think, that there was potentially, money that would become
18 available through voter-approved bonds, that might be
19 available to help out on this project, and, in effect, to
20 help to finance a setback of the Feather River levee,
21 which provides not only benefits to the immediate area --
22 in that, the immediate area would end up with a brand new
23 levee, sort of constructed from the ground up, but in
24 setting back the levee, it adds capacity and lowers the
25 water surface in the system.

1 So what we are trying to do here, this morning, is
2 understand how this latest wrinkle, the availability of
3 state and federal funds, plays into completing this
4 project. And I think the Board, at least this Board
5 member's first priority, which is that as long as building
6 permits are being issued here, that the work on improving
7 these levees continue to go forward effectively, as
8 quickly, as it possibly can.

9 So I think the format I would like to use this
10 morning is, first of all, I would like to sort of modify
11 the order of the items on the agenda.

12 We've had a lot of testimony over the last two Rec
13 Board meetings, over the status of the applicant's
14 compliance with the permit conditions. And I know this
15 may be an issue where there are interests here in the
16 community that want to testify. But I think because
17 the -- while that's a serious issue, the bigger issue here
18 is getting an understanding of where this project is going
19 in the future.

20 And what I would like to do and planning to do, as
21 long as it's okay with the other members of the committee
22 who's here, is to take Item 1 and deal with it after we
23 have gone through Items 2 and 3. And that way, we have
24 all the time in the world to deal with whatever comes up
25 there; and yet we still get through the most important

1 part of this, in my view, again, which is understanding
2 where this project is going.

3 One last piece of information that you may or may
4 not be aware of, we have already scheduled a second
5 committee meeting because we don't anticipate that the
6 committee, even as a committee, would make any decisions
7 this morning. We're here to get a better understanding
8 and to hear from folks up here about where we are. And
9 then when our next meeting is held, that will be the
10 opportunity, perhaps, to the committee, to at least form
11 its impression as to what it's going to recommend to the
12 Board, which, because of the timing for public notice for
13 Reclamation Board meeting, is not likely to come back to
14 the Board for action until its April meeting.

15 So we have another -- when is that?

16 GENERAL MANAGER PUNIA: March 9th.

17 VICE PRESIDENT HODGKINS: Okay. We have another
18 meeting scheduled here in March 9th, here in this center.
19 I don't know if we're in this same room. And that's the
20 time, I think, at which the committee might formulate its
21 recommendation back to the Board as a whole.

22 Is there a question?

23 MR. ARCHER: Yes. Mr. Vice President. You are
24 moving No. 1 behind 2 and 3. Number 1 has already
25 occurred, sir. Two and three are in the future.

1 Let's deal with what's occurred, because if 1 is
2 found in fault, 2 and 3 will certainly be found in fault.
3 I disagree with moving 1 to the back. I request to move
4 it right where it's at, and move forward from that, sir.

5 DR. SMITH: May I add to that, please.

6 My name is Dale Smith. I'm with Concerned
7 Citizens Responsible Growth.

8 MR. ARCHER: I am Rex Archer.

9 DR. SMITH: We have filed a letter with your legal
10 counsel this morning, in which we are bringing four points
11 forward, which we have very serious concern about the
12 legality of this meeting. If I could have one word of
13 clarification: Are you going to take any action today?

14 VICE PRESIDENT HODGKINS: (Speaker shakes head.)

15 DR. SMITH: No action? Okay.

16 That takes care of one of the ones.

17 The other one that we have seen in the
18 Bagley-Keene Act is that whenever there is an item that
19 comes up, before you can move to another item, you must
20 have public discussion on that item. We filed that with
21 them, and that is something that we are asking for this
22 morning. So wherever -- wherever it is arranged, when
23 this discussion on 3.1 comes down, and the TRLIA and Rec
24 Board and whoever makes their position, than we want to
25 speak at that time.

1 Thank you.

2 VICE PRESIDENT HODGKINS: And I appreciate the
3 comments. I think the issue of compliance with permit
4 condition is a complicated issue. It will undoubtedly
5 take us some time to hear what everybody has to say.

6 It's my understanding, that in connection with the
7 work that's being done up here, there are four separate
8 permits. And while I would agree that compliance with
9 those permits is extremely important, in that, it is, in
10 effect, a measure of the committee's good faith efforts to
11 work with the Board and move these projects forward, I
12 still prefer to put that at the end of today's agenda and
13 try and get through 1 and 2. And this is simply because I
14 think the timing of the Rec Board's action here, and I
15 think the whole question of whether or not folks are in
16 default, is something we'll have to come up with later.

17 But we need to be -- get a good understanding of 2
18 and 3 in order to be in a position to judge also where
19 we're going to go.

20 One more question?

21 MR. ARCHER: Mr. Vice President, 2 and 3 are far
22 into the future. They are in the study phase. 1 has
23 occurred and is occurring as we sit here. That needs to
24 be handled before we move to something in the future. The
25 future one is not connected with that one. That's a

1 separate program altogether, sir. We cannot leave it
2 sitting there and move on somewhere else and leave the
3 Linda levee setting there, untouched. We have to deal
4 with that today. You've drawn all the people together.
5 Let's do it now. If you can't do the second part, you
6 have plenty of time, sir, to call another meeting.

7 VICE PRESIDENT HODGKINS: Thank you for your
8 comments. But -- and this is really a matter for input
9 from the other two committee meetings. I think we ought
10 today -- and I am not, by any means, planning to leave
11 here until everybody who wants to testify on Item 1 has
12 had an opportunity to testify. So I don't want there to
13 be any misunderstanding of that.

14 I simply would like to get through 2 and 3 first,
15 and then go to 1, because I know it's going to be an issue
16 where there is, perhaps, going to be lots of testimony.

17 I think right now, today, we are not making any
18 decisions about moving forward with the project on the
19 Feather. And we are absolutely committing to listening to
20 what you have to say with respect to Item 1. I just would
21 like to go through the other two first.

22 Now, is there any input or disagreement from the
23 other Board members? Is that a reasonable approach?

24 SECRETARY DOHERTY: I believe I would prefer to go
25 through Item 1, although it is going to be time consuming,

1 because I feel that before we can continue on, we need to
2 settle this matter.

3 VICE PRESIDENT HODGKINS: Ben?

4 PRESIDENT CARTER: I have no strong preference
5 either way. So it's really -- it's your call.

6 VICE PRESIDENT HODGKINS: Okay.

7 DR. SMITH: Could I just state for the record,
8 CCRG is opposed to discussing 2 and 3 first, just for the
9 record. We would prefer to do 1. Just want to make that
10 clear.

11 Thank you.

12 VICE PRESIDENT HODGKINS: I appreciate that.

13 I would like to go ahead and do 2 and 3 first, and
14 that's the method with which I would like to proceed.

15 All right?

16 So 2, Status and Plans for the Phase 4. I'm going
17 to go ahead and turn it over to TRLIA. They are going to
18 tell us what's been going on in their minds.

19 TRLIA EXECUTIVE DIRECTOR BRUNNER: Good morning,
20 members of the subcommittee, and welcome to Yuba County.

21 I'm Paul Brunner, the executive director of Three
22 Rivers. And before I get into the discussion, I would
23 really like to turn to a couple Board members here and ask
24 them if they have any words.

25 TRLIA BOARD MEMBER GRIEGO: I would just like to

1 welcome you here. This is a project that's been going on
2 for years. We have met on several occasions. We moved
3 this project. It's important to the south county. And I
4 appreciate your attendance here. So I would just like to
5 say thank you for coming to Yuba County, and let's get the
6 last phase of the south county work completed.

7 TRLIA BOARD MEMBER LOGUE: I would like to say,
8 first of all, thank you for all your participation. You
9 have been patient. You've worked with this county. This
10 is a county that is very grateful for your efforts. I
11 want you to know that you're partnershiping [sic] with
12 us. We're paving new paths, and you are helping us do
13 that.

14 You are helping this community become safe, and
15 this community will be an example for the rest of the
16 state. And I want to commend you for your efforts. So
17 we're here to help you, to work with you, and to
18 partnership with you, and you're the best help that we can
19 get.

20 So thank you very much.

21 TRLIA EXECUTIVE DIRECTOR BRUNNER: Three Rivers
22 has done a tremendous amount of work in the field to
23 improve our levees. We're working on 29 miles of levees.
24 Scott Shapiro is going to be giving a presentation for us.
25 Ric Reinhardt and myself will be engaging back and

1 forth with you on comments and questions as we go through
2 the setback. But for us, I think it's been an exciting
3 time in the last several years, where we have completed
4 work along the Yuba, Bear, and Western Pacific Interceptor
5 Canal, at breakneck speed. And you'll see that as we go
6 there. I think we've done an excellent job, with great
7 success.

8 Where we are focusing on today is this portion of
9 our work between the Yuba and Bear River, this portion of
10 the Feather River and through here. And until very
11 recently, as we worked through this, we looked at
12 strengthening in place on this option in here. Today,
13 earlier, Scott will go through this in much more detail
14 for you, in our presentation. We made a decision to look
15 at accomplishing this setback. We think it has tremendous
16 benefits for the community and regionally, and we want to
17 do it. We can get a great shot at it.

18 VICE PRESIDENT HODGKINS: We know that Prop 1E
19 came, and we think that gives us great leverage to move
20 forward and proceed down that road. What I'm going to do
21 is ask Scott to do the presentation on how we're going to
22 accomplish the setback.

23 TRLIA SPECIAL COUNSEL SHAPIRO: Thank you, Paul.

24 I think this is the eighth or maybe ninth
25 opportunity I've had to address the subcommittee in its

1 different forms, plus numerous Reclamation Board meetings.

2 (Thereupon an overhead presentation was
3 presented as follows.)

4 TRLIA SPECIAL COUNSEL SHAPIRO: I think the thing
5 that I'm struck by, is that after all this time, our
6 project goals remain exactly the same.

7 Our goal is to achieve at least a 200-year level
8 of flood protection for the communities in south Yuba
9 County, including the newly formed Plumas Lake, but also
10 the existing communities of Linda, Olivehurst, Arboga, and
11 the approximately 22,000 existing residents that are in
12 those communities.

13 We still have the continuing goal of completing
14 all the major public safety elements in 2007 and 2008.
15 And there's a local entity that is ahead of where a lot of
16 other projects are. We are also committed to a fair and
17 equitable state and local cost-share, with local
18 cost-share generated through continued development as our
19 one essential source of revenue for getting this stuff
20 done.

21 And I'm struck by the fact that no matter how much
22 a project changes -- and you will see a later slide with
23 the almost exponential growth and cost of this project
24 from an early estimate that was in the 28-,
25 35-million-dollar range up to a current estimate in the

1 over \$300 million range -- that our goals remain the same,
2 and we continue to meet all the milestones we set for
3 ourself.

4 So with that, I'm going to share with you the
5 overview of the four points that I'm going to share with
6 you today.

7 --o0o--

8 TRLIA SPECIAL COUNSEL SHAPIRO: I'm going to go
9 through the history of the setback levee. And I'm going
10 to avoid the history of the project. I think you have
11 heard that numerous times and don't need it again. But we
12 are going to go through the history of the setback levee,
13 talk about the benefits of the setback levee, and not take
14 it for granted that everyone would automatically assume a
15 setback levee is a good thing. Sometimes it is; sometimes
16 it isn't. We think that after you hear the information,
17 you will agree that, in this case, it's an overwhelmingly
18 positive thing.

19 I'm going to talk about our design, permitting,
20 and construction schedule to achieve the remaining project
21 that we need to do, to get to that 200-year level of
22 protection, and how we can do it in 2007 and 2008.

23 And finally, we're going to start talking about
24 the interplay with the existing implementation agreement
25 and funding agreement. You will recall that the

1 Reclamation Board is not a party to the implementation
2 agreement, but you are a third party beneficiary. And you
3 have certain rights to ensure that we are continuing to
4 perform as we promised we would. And it's important that
5 we start talking about how our proposed project, over the
6 next two years, relates to your obligations and your
7 rights in regard to making sure we get the work done. And
8 we're going to start talking about that today.

9 I suspect, as Butch indicated earlier, we're not
10 going to make any decisions today. You're going to have
11 questions; we're going to answer them as best we can
12 today. We'll come back next time and answer additional
13 questions that you have and hopefully get to the point
14 that the subcommittee can support what Three Rivers is
15 proposing to do here.

16 So that's our overview.

17 --o0o--

18 TRLIA SPECIAL COUNSEL SHAPIRO: We're going to
19 start with the history of the setback levee and helping
20 you understand the evolution that we've had over the last
21 few years. Hopefully we can share it with you in about
22 five or ten minutes.

23 --o0o--

24 TRLIA SPECIAL COUNSEL SHAPIRO: In 2003, the Yuba
25 County Water Agency completed Proposition 13 Funded

1 Feasibility Study, and a programmatic EIR. And that
2 document actually determined that Feather River setback
3 levee was feasible. Now, if you want additional detail on
4 it, I can tell you that the EIR actually studied multiple
5 setbacks. For purposes of this conversation, we're
6 talking about the setback that is essentially the one that
7 we're pursuing today.

8 On January of '05, as you may recall, from our
9 previous briefings, the Corps came in and changed the
10 game, if you will. They told us the Feather River, which
11 they had said was fine, was not fine. That's what
12 generated our Phase 4 project. And at the time, our
13 assumption was, because Prop 13 funding was just about
14 gone, that there was not going to be any state funding to
15 help us proceed with the setback levee, as there had been
16 on the Bear River. And so we basically pushed toward the
17 strengthen in place.

18 But in April of 2005, the prior Rec Board approved
19 our approaches for Phases 1 through 3. That's most of the
20 Yuba work, the Western Pacific Interceptor Canal and the
21 Bear River. Those three phases are now substantially
22 complete. And we'll talk during the compliance briefing
23 over what's not complete in those. But there is some --
24 some slope leveling that needs to be done. There's still
25 the levee raise issue, that we'll have to come back to

1 your Board after you adopt policies in conjunction with
2 the agenda for your next Rec Board meeting, in March.

3 At the completion of the work that we've done --
4 we're actually waiting right now on FEMA certification,
5 providing 100-year certification of the communities of
6 Linda and, really, I think, north Olivehurst.

7 The interesting thing is that while there's still
8 work to be done, we've actually achieved a tremendous
9 amount. The fact that we're taking a huge population
10 center out of the floodplain on those FEMA maps is really
11 something we're very proud of and think is a major
12 accomplishment we should all be happy with.

13 That public/private partnership has really
14 resulted in a tremendous increase in public safety. We've
15 spent about \$130 million, and it's really been superior to
16 what we would consider an unacceptable delay of waiting
17 for the federal Yuba Basin project. That project is very
18 important still; it is going to provide the protection to
19 the City of Marysville that it needs. But we had the
20 opportunity to move ahead of it. While it still is in the
21 feasibility, it's still waiting on the final reports. And
22 they are going to go to the chief of engineers for the
23 Army Corps. We probably will be done with our project by
24 the time those reports are done. And we think that's an
25 accomplishment. We think this model definitely works.

1 --o0o--

2 TRLIA SPECIAL COUNSEL SHAPIRO: A second slide on
3 the history: In May 2006, you approved an approach for
4 Phase 4 Feather River, which was strengthen in place. As
5 we talked about, we didn't believe there was any state
6 funding available to supplement our revenues. We needed
7 to look at the lowest-cost project at that point, and that
8 was a strengthen in place. And we also set up the
9 agreement to cover the Yuba River.

10 In August of 2006, that first landowner capital
11 call was made. It funded the Yuba River repairs. Those
12 repairs are essentially done. They are substantially
13 complete. As I mentioned, we still have the levee raise
14 issue. We have some minor ditch filling or riprapping we
15 have to do up by the gold fields. But essentially, they
16 are substantially complete. And we think that's a major
17 accomplishment. That was, if you will, the quid pro quo
18 for you agreeing to unlimited building permits for the
19 development community. We got that work done. We
20 promised it, and we did complete it.

21 Now, in November of 2006, after Propositions 84
22 and 1E were passed by the voters, Three Rivers had to
23 figure out what it wanted to do. Just like with the Bear
24 River levee, when we suddenly had the opportunity for Prop
25 13 funding available, coupled with developer funding, we

1 thought, hey, we may be able to do a better project. We
2 may be able to do better than the strengthen in place.
3 And, indeed, we made a decision in November. As we
4 reported to you previously, we rescheduled that second
5 capital call. We did so for two reasons.

6 One, probably most important, the second goal in
7 there, our cash flow showed we didn't need the funds yet.
8 We were continuing to process along. Our Prop 13
9 reimbursement from the state was moving along. And our
10 project was funded properly at that point. And secondly,
11 our funding agreement required that we selected a project
12 before that capital call.

13 And we now had the potential to pursue the setback
14 levee as a result of Propositions 84 and 1E.

15 --o0o--

16 TRLIA SPECIAL COUNSEL SHAPIRO: So we went out and
17 we started talking with people. We've had numerous
18 conversations with staff at DWR at all different levels,
19 and we have received conceptual reports of the setback
20 levee. They would like to see it. They certainly aren't
21 in a position, legally, to commit funds yet, but they say,
22 yes, they would like it and they would like to see if they
23 could help. And we understand that Les Harder or Rod
24 Mayer will be here today and will provide a briefing to
25 you on DWR's support for our project.

1 So I don't want to put words into their mouths,
2 but they encouraged us, and we like that encouragement.

3 We have received written support letters from
4 Sutter County, from Levee District 1, who I know is here
5 today and will probably offer public testimony on that
6 issue; Friends of the River; SYRCL, the South Yuba River
7 Citizens League; Sierra Club; Yuba County Water Agency;
8 and importantly, SAFCA. A downstream of levee protection
9 agency agrees that this is a good project and has
10 supported it.

11 And so in February of 2007, after a lot of due
12 diligence on our part, that we can still get it done in
13 time, and we can fund it, we made the decision to certify
14 the EIR -- and I shouldn't say "we." Our Board bravely
15 said, "We want to do the best project we can," and they
16 selected the setback levee.

17 --o0o--

18 TRLIA SPECIAL COUNSEL SHAPIRO: So this is the
19 setback levee. It's the Segment 2 section. As you see,
20 Segments 1 and 3 are strengthen in place. And they would
21 be strengthen in place under either scenario. But you can
22 see, the line on the right, the blue dotted line on the
23 right is the proposed setback alignment. It still
24 achieves in excess of 200-year flood protection. The
25 total reach is about 13 miles.

1 Yes, Butch?

2 MR. ARCHER: Mr. Shapiro has moved to No. 1. He's
3 talked about No. 1 all through this thing. It is not
4 completed. We need to show it's not completed. He is not
5 staying with No. 2 and 3. He is in No. 1, up there, at
6 the top of the thing.

7 I -- I disagree with this.

8 Thank you.

9 VICE PRESIDENT HODGKINS: I understand. And I
10 appreciate your disagreement and your strong feelings.

11 But I want to try and go forward and deal first
12 with where we are going.

13 TRLIA SPECIAL COUNSEL SHAPIRO: So again, the
14 Feather River Improvements here will achieve the 200-year
15 protection. Segments 1 and 3, as I said, are strengthen
16 in place. Segment 2 is roughly six miles, a little under
17 six miles.

18 So that's just your physical overview, if you
19 will.

20 --o0o--

21 TRLIA SPECIAL COUNSEL SHAPIRO: So I've gone
22 through the history, now, of the setback levee. I think
23 it's important to move to the benefits. Despite attempts
24 otherwise on my part, I'm not an engineer. I will share
25 with you my advocate's understanding, if you will, of the

1 benefits of the setback levee. But I have Ric and Paul
2 here to the extent there are detailed questions on it.

3 --o0o--

4 TRLIA SPECIAL COUNSEL SHAPIRO: There are four
5 primary categories of benefits. I will go through them,
6 and then we have a slide or two on each of the four here.

7 One is it provides superior flood protection, for
8 south Yuba County. And I will explain how that -- how
9 that is. Second is the regional benefits. Third is that
10 it's consistent with the Flood Safe California Program,
11 and we think one of the most significant structural
12 changes to the system that could be constructed in the
13 next few years. And finally, it creates up to 1550 acres
14 of habitat for restoration and mitigation. So let me go
15 through each of those four.

16 --o0o--

17 TRLIA SPECIAL COUNSEL SHAPIRO: In terms of
18 superior flood protection, unlike the current levee and
19 unlike retrofitting levees, it would be built to current
20 engineering standards. It's still from scratch, and as a
21 result, you basically can control every aspect of that
22 construction. For example, the existing levee has very
23 sandy soil, and the new levee would be built with much
24 more suitable soils under Corps standards. It removes a
25 river choke point and widens the floodway. Very

1 importantly, it's built away from the old river channels.
2 As we have seen in our investigations, the current levee
3 is actually built directly over an old river channel. And
4 so you basically have a sand layer, that just sits right
5 under the levee, and that's been one of the reasons we
6 have had so many boil and seepage problems in the past.

7 It eliminates significant erosion sites. There's
8 three or four erosion sites on that structured levee that
9 would be completely removed, including one that's listed
10 on the Sacramento Bank Protection Program list.

11 And of course, not only do you widen it and thus
12 reduce the chance of erosion, you reduce the opportunity
13 or the need to spend a lot of money on expensive erosion
14 control and riprap, by basically putting in a new levee
15 that doesn't create those erosion-type forces.

16 And finally, it will actually achieve greater than
17 200-year protection in certain reaches, because of that
18 widening of the channel.

19 --o0o--

20 TRLIA SPECIAL COUNSEL SHAPIRO: I should say that
21 obviously there's a big connection between every one of
22 those things that I just mentioned and the O&M burdens
23 associated with levee maintenance today.

24 If you look at the cost associated with levee
25 maintenance, if you look at the challenges in dealing with

1 endangered species, all of those issues are lessened when
2 you have a brand new levee that's setback and doesn't
3 create the O&M problems we've had previously.

4 Second benefit, the regional flood protection
5 benefits. The channel widening obviously lowers the water
6 surface elevation or removes the choke point. As our
7 studies indicated, it will actually have a benefit for
8 Marysville and Yuba City in the range of 1.3 to 1.5 feet
9 of water surface elevation reduction. Let me just clarify
10 that. In a 100-year storm, the water, at river mile 2.7
11 will be -- excuse me, 27, will be 1.3 feet lower than it
12 would have been without the setback levee.

13 Similarly, if a 200-year storm, it will be 1.5
14 feet lower than it would have been without the setback
15 levee. And those are huge benefits to those two existing
16 urban communities that, at the moment, don't have levee
17 improvement programs that are underway.

18 It also has a maximum water surface reduction, at
19 river mile 23.5, of 2.7 feet for the 100-year storm and
20 3.0 feet for the 200-year storm. So it clearly has very
21 significant regional flood protection benefits.

22 Because of the regulated nature of the river and
23 the additional 1550 acres that are in the floodway, that
24 are in essence our storage within the floodway, there
25 aren't downstream hydraulic impacts. And I think you saw

1 that, and SAFCA being willing to come in and support this
2 particular project. And as I noted before, we've received
3 regional support by letters from throughout the region,
4 and we think it's a good indicator of just how supportive
5 people are, indeed. I will also note that, of course, the
6 surface water reductions actually travel up the Yuba River
7 and lower water surface elevations on the Yuba.

8 --o0o--

9 TRLIA SPECIAL COUNSEL SHAPIRO: I have a slide
10 here that can be very complicated, and I want to simplify
11 it. We can go through detailed questions, afterwards, if
12 you want.

13 What we have done is, the third column, where it
14 says "1986 Water Surface Elevation," that was the river's
15 water surface elevation in '86. And the '97 obviously, is
16 the next column; that was the water surface elevation in
17 '97.

18 What's interesting is, those storms which were
19 100-or-less year storms, if you compare the water surface
20 elevation with the setback, you can see how substantial it
21 is. For example, in Marysville, in '86, the water surface
22 elevation was at 77 feet; and '97 was at 78 feet. With
23 the setback levee, a 100-year storm would now be at
24 73.9 feet. And a 200-year storm is now at 77.2 feet.

25 So if you have any belief that since the levees

1 have been able to pass those levels before, if in fact
2 that elevation may be that again, you see that we can take
3 bigger storms and run it through the system as a result of
4 the setback at lower water surface elevations. And we can
5 come back to that if you need an engineer's explanation.

6 --o0o--

7 TRLIA SPECIAL COUNSEL SHAPIRO: So the third of
8 the four benefits of the setback is, it's consistent with
9 the FloodSafe California Program. And there's really two
10 prongs to this: The first is, there are these criteria
11 that DWR has developed for FloodSafe California funding,
12 and we meet or exceed those criteria. And that's
13 important to get a sense that funding would be available.

14 But I think the second prong, which is the
15 other -- which is the second bullet -- may be even more
16 important, which is, the program acknowledges that
17 consistent changes have to be made to reduce endless
18 erosion, the O&M battles, and cost. And we think this is
19 exactly the kind of system change, a modification to a
20 testimony that does more than just strengthen levees or
21 raise levees. This is what we think really should be
22 done.

23 I will note, in regard to the third bullet, that
24 just on Friday, at the Northern California Water
25 Association Meeting, over in Yuba City, Lester Snow noted

1 that this is the kind of program that DWR wants to be able
2 to support under the FloodSafe California program. And we
3 think there's a reason for that: This program makes
4 sense.

5 --o0o--

6 TRLIA SPECIAL COUNSEL SHAPIRO: The fourth of the
7 four sub-benefits, if you will, to the setback levee, is
8 the 1550 acres of habitat that it can create for
9 restoration and mitigation. Importantly, that can be used
10 for mitigation banking to facilitate some of the other
11 flood control work that needs to be done in the area, or
12 it could promote habitat restoration enhancement. It
13 could be agricultural land with flowage easements. We
14 don't have a bias as to how it should be.

15 I'll tell you that our budget considers that about
16 half of it's in restoration and enhancement, and about
17 half of it is agricultural land with flowage easement.
18 But we're flexible on the best use of that land.

19 It adds a significant increment to the existing
20 riparian corridor. This map that's behind me, it shows up
21 in red hash over here, on the easel. You can see the
22 green hash areas are other riparian corridors. So right
23 here, the red hash again is the -- the red hash is the
24 setback levee here, the 1550 acres. And then green are
25 all of the other riparian corridors. So it helps connect

1 up the riparian corridors on the Feather River.

2 But importantly, and I think we heard this from
3 the Reclamation Board in regard to the Bear River setback.
4 We need to make sure adequate agreements are in place, so
5 that Three Rivers or DWR or both can get in and perform
6 necessary maintenance in that restoration area. We don't
7 want to create problems by putting restoration near the
8 river. And so we need to make sure, up front, that's
9 taken care of, whether it's Hold Harmless or whether it's
10 Safe Harbor. Or whatever it is, we need to make sure that
11 happens up front, and we are committed to doing so.

12 --o0o--

13 TRLIA SPECIAL COUNSEL SHAPIRO: So we've gone
14 through the history. We've gone through the benefits.
15 And next we come to the design, permitting, and
16 construction schedule.

17 --o0o--

18 TRLIA SPECIAL COUNSEL SHAPIRO: Segments 1 and 3
19 are 90 percent designed at this point; the design has
20 essentially all been done. And we've begun the essential
21 permitting for Segments 1 and 3.

22 Segment 2, design contract, is scheduled to go to
23 the Three Rivers Board within 30 days. It may even be on
24 the March 6th agenda, our next Board meeting, after
25 tomorrow, for Three Rivers.

1 And Phase 4 Feather River strengthen in place and
2 setback levee construction -- because again, there is
3 strengthen in place on 1 and 3, and there would be setback
4 on 2 -- is all scheduled to start in 2007.

5 We've begun the process of land acquisition. We
6 hope the majority of that will be voluntary. As with the
7 Bear River, we sometimes saw the need to use eminent
8 domain, whenever there are disputes over price.
9 Interestingly, on the Bear River, it was always a price
10 issue, never an easement issue. And we hope we will have
11 that same cooperative relationship going forward, but
12 we've already begun that process.

13 --oOo--

14 TRLIA SPECIAL COUNSEL SHAPIRO: Here is a
15 schedule. And because it's not so clear, we're going to
16 hand these out and I think we probably have close to
17 enough for everyone in the room.

18 We apologize for the blurriness. We had some
19 software problems, so this is what we had, and that's why
20 we have handouts coming out.

21 We have developed this design, permitting, and
22 construction schedule that shows that we can still get
23 where we need to go. I will just point up, here using
24 this pointer down at the board. This dark black line that
25 runs vertically, down here, December 2008, that line

1 relates to this last written text, which is "200-year
2 facilities complete." So we're still committed to getting
3 those facilities complete.

4 Now, I will be real upfront that the item above
5 that, "Degrade existing levee in Segment 2" that's a 2009
6 scheduled item. But that's only after we have the new
7 facilities in place. And you see that down here, after
8 the black line.

9 Unlike the Bear River setback levee, you will
10 recall, we came before you a year ago to ask to
11 simultaneously degrade the old levee and construct the new
12 one. We're not proposing to do that this time. And
13 there's a few reasons: One is, the soil mix that's in the
14 existing levee is not adequate, so there's no reason to do
15 it; and secondly, due to the length of that levee, we
16 think it could be a little overwhelming, trying to get it
17 all done in one construction season. So we actually
18 propose to completely construct the embankment. You will
19 see, that's the third to the last item under construction
20 embankment. That would be done during the summer of 2008
21 or coming into 2008. I'm sorry. I'm on the wrong line.
22 Down here, summer of 2008.

23 The line above it is the construction foundation.
24 And just as with the Bear River foundation for the setback
25 levee, we constructed that, starting over the winter. We

1 would propose to do the same thing here.

2 Separately, if you go up to the middle set of
3 bars, what you see is that 1 and 3 is designed, where
4 permitting is just about complete, land acquisition is in
5 process. And that would be constructed starting sometime
6 in the next several months and would be done well before
7 the 2008 time line as well.

8 And finally, I will point out to you the very top
9 set of bars. Maybe it's patting ourselves on the back.
10 But every one of those phases is substantially complete.
11 And we'll get into a discussion in compliance, about as to
12 whether you believe it is or isn't on some of the details,
13 but I will just complete enough for us to get FEMA
14 certification, which we are expecting in the next several
15 weeks. So that's the design, permitting, and construction
16 schedule, consistent with the goal at the very beginning,
17 is to get it all done in 2007/2008. We think we can do
18 it. The schedule is very consistent with the
19 aggressiveness with which we completed the Bear River
20 setback levee.

21 --o0o--

22 TRLIA SPECIAL COUNSEL SHAPIRO: Our permitting
23 approach is very similar to the Bear River levee. And
24 particularly, here, I'm highlighting the issue of 408
25 approval, the modification of the system. You will

1 recall, last time we had to come to you and we said, "Rec
2 Board, please support the Corps approving a change in the
3 project levee," that the old levee would be degraded and a
4 new levee would become the new project levee.

5 And similar to that approach, where we bifurcated
6 it, and we first got permits to build the backup levee --
7 you will recall Steve Bradley using that term -- and then
8 weigh in and degraded the old levee, we would do the same
9 thing here.

10 Ric Reinhardt, on behalf of our team, sent out a
11 memo a few weeks ago to Rec Board staff, to the Corps, and
12 other resource agencies, laying out this proposal and
13 asking for a meeting to confirm if this works for your
14 staff, for the Corps staff.

15 But essentially, we first obtained the permits to
16 build the backup levee. And because we're not degrading a
17 project levee, that doesn't require 408 approval.

18 Secondly, almost simultaneously, but second as a
19 step, we obtained the permits to remove the old levee,
20 including 404 encroachment permit and 408. And this
21 allows us to come in and breach that old levee after
22 January 1 of 2008, and buys us the extra time to get that
23 degradation.

24 --o0o--

25 TRLIA SPECIAL COUNSEL SHAPIRO: The final topic

1 for this morning's PowerPoint is the interplay with
2 existing implementation agreement and the funding
3 agreement. And I think, just to put it in context, this
4 is the area where, in my view, we're starting the
5 discussion today. We have some unknowns, and I will
6 identify those unknowns for you, although we believe we
7 will have all these unknowns wrapped up by the
8 March 9th second subcommittee meeting. But this is our
9 current thinking on the interplay.

10 As I noted before, with the Bear River setback
11 levee we had multiple funding sources. We had Proposition
12 13, and that was funded from both DWR and Fish and Game.
13 And we had the funding from the developers. And the
14 combination of that funding allowed us to build a more
15 extensive project, which had a regional system and
16 environmental benefits.

17 Because we're selecting the setback levee here,
18 Three Rivers and the landowners are meeting again to
19 discuss an amendment to the funding agreement. The
20 funding agreement contemplated building a strengthen in
21 place levee. And now we're talking about a setback levee.
22 So we're back to the table to work out those details. In
23 addition, as I mentioned before, we're talking with DWR,
24 who will be able to address you shortly, about the, state
25 support for the setback levee. And, you know, as I said

1 before, I can't -- but I won't try to put words into DWR's
2 mouth, but we have communicated with DWR the need for the
3 State to provide timely funding to make sure we meet
4 project milestones.

5 --oOo--

6 TRLIA SPECIAL COUNSEL SHAPIRO: This next slide is
7 a projected cash flow. And again, due to the blurriness,
8 we have copies to hand out.

9 The strategy behind this cash flow -- and again, I
10 will use the pointer up here on the board -- is to
11 basically keep our program moving forward, as we promised
12 it would, until the Legislature can appropriate
13 Proposition 1E funding. For those of you who don't know,
14 Proposition 84 is continuously appropriated. There's more
15 flexibility in the administration's use of those funds.
16 But 1E requires the Legislature to appropriate.

17 And so you will see here, we have this "November
18 and later" time frame along the top, down towards the
19 right side. And we have a big number, \$127 million, down
20 there. And that's projected State Early Implementation
21 funding from Prop 1E. We have acknowledged that it may
22 take that long for the Legislature to appropriate and get
23 contracts in place and get funding.

24 And so with that as a known, and knowing the
25 schedule that I have shared with you, the question then to

1 us, internally, was: How do we achieve it? And this cash
2 flow is our way of demonstrating that we believe we can
3 achieve it.

4 At the top, we have project revenues. We have
5 continuing reimbursement from Prop 13. We have Prop 84
6 revenues we've requested, and we hope to hear soon from
7 DWR on that. It results in a "projected state total" line
8 for revenues.

9 Then we have our landowner funding. We've had
10 \$69.5 million of landowner funding already come in, which,
11 to me, is a huge success when you think about what that
12 has bought for this community and the communities of Linda
13 and Olivehurst. Then we have projected landowner funding
14 going into the future. We have a second capital call over
15 the next few months, and then future capital calls timed
16 around the same time as the state money is coming in.

17 Those, along with FEMA grants and miscellaneous
18 revenues, result in this total revenue line. And right
19 below it is our total expense line. And what I don't have
20 on here, and maybe I should have, is a running total
21 taking the expenses and the revenues and seeing how much
22 is left and kind of projecting it out. But what you see
23 over the course of the cash flow is, there are enough
24 revenues to match the expenses. And the expenses match
25 the schedule milestone sheet that I passed out a few

1 moments ago.

2 So this is our demonstration. We can keep the
3 project going while we work out these details on funding.

4 The last thing on this slide is the bottom, "Three
5 Rivers Growth and Costs." And I want to be real clear in
6 what this is. This should not be interpreted as the
7 project has been the same and the costs have grown. The
8 project has changed. We have a little saying within our
9 group, that the project changes every six months. And
10 indeed, it seems like it does.

11 We went from some initial work that had do be done
12 on the Yuba and the Bear and maybe the WPIC, to doing
13 more, to having the Corps coming in on January of '05 and
14 saying we have to do even more work. So now I'm looking
15 at the possibly of the setback levee. But what's
16 interesting is, is a consistent growth, and what it's
17 going to cost to get this project done. 25 million in
18 2003, to 354 million estimated now, in 2007. These
19 numbers were different within each year period. They
20 changed sometimes on a monthly basis.

21 But despite this, and as scary as this may look,
22 we've met every milestone. We've met every commitment to
23 the Reclamation Board that we said we would make. And we
24 are confident we can continue to do so and get to that 354
25 number and get this project done.

1 --o0o--

2 TRLIA SPECIAL COUNSEL SHAPIRO: So continuing on
3 the interplay with the existing agreements, we're working
4 closely with DWR. We will apply for Early Implementation
5 Funding grant from California FloodSafe program, as soon
6 as those grant applications are available.

7 We're meeting regularly with the landowners to
8 discuss the new commitment in light of the change to the
9 setback levee. We expect to report on that completed
10 framework at this subcommittee's next meeting, on
11 March 9th. What we have as a request to you, is that you
12 provide comments today, March 9th, March 16th, full
13 Reclamation Board meeting, to let us know whether this
14 works for you, to share with us concerns you have, so we
15 can then go back and develop an amendment to the funding
16 agreement and bring that back for your review at the
17 May 2007 meeting.

18 We talked internally about the April 2007 meeting.
19 But due to notice requirements and Bagley-Keene and Brown
20 Act and the number of days in between, we're just
21 concerned about our ability to draft a complicated
22 amendment in that short a time, and that's why we've
23 selected the May 2007 date.

24 But the key commitment here is the schedule, our
25 schedule, will be maintained during this interim period so

1 we can still complete all improvements by November 2008.
2 And that's the key point that I really want to leave you
3 with.

4 --o0o--

5 TRLIA SPECIAL COUNSEL SHAPIRO: So coming down to
6 our final thoughts, and then I will stop talking, we're
7 still back to these three co-equal goals, our program
8 goals: The 200-year level of protection for the south
9 Yuba County citizens; providing those regional system and
10 environmental benefits so that our friends across the
11 river, in Sutter County, and LD1 in Marysville and Yuba
12 City can benefit from what we have achieved, completing
13 the major elements in 2007 and 2008; and achieving a fair
14 and equitable state and local cost share with the local
15 cost share generated through continued development.

16 What's really interesting is, if you look at the
17 amount of money that the State has contributed to our
18 project and the amount of money we're asking the State to
19 contribute in the long run, coupled with the developer
20 funding to date, and the projected developer funding,
21 interestingly, it comes out to about a 70/30 split, the
22 traditional flood protection cost split in California.

23 And we think that this program has kind of come
24 full circle and makes a lot of sense.

25 Finally, I just want to note, and this is really a

1 comment from the entire team and from Paul Brunner in
2 particular, we're dedicating to providing all necessary
3 coordination with the Reclamation Board, DWR, and other
4 resource agencies. We know that this is going to be a
5 challenge in the amount of time we have to get done. And
6 we acknowledge -- and we'll deal with this in the
7 compliance briefing -- that our coordination to date
8 hasn't been as good as it should have been. And we're
9 committed to making sure that we start off on the right
10 foot, here. We're giving you a full briefing. We're
11 looking forward to your comments. And at the end of the
12 day, we hope, at the end of 2008, we'll all be able to
13 stand together on that levee, and look at what we have
14 accomplished together.

15 So with that, I thank you for your time, and we're
16 available for questions you may have.

17 VICE PRESIDENT HODGKINS: Okay. I'm not sure the
18 best way to go through this, because it may be that we all
19 have questions in specific areas.

20 TRLIA SPECIAL COUNSEL SHAPIRO: Butch, my
21 apologies for interrupting, but I had two more handouts to
22 give out, that may be helpful to you as you formulate
23 questions.

24 One is, we put together everything that you just
25 heard, in the form of a Draft Statement of Principles

1 along with exhibits. And those exhibits include the
2 benefits of the setback levee, the history of the setback
3 levee, the cash flow, and the schedule. And we'll hand
4 those out now. And for the Rec Board members -- we don't
5 have enough of these for everyone of the public -- we do
6 have copies of the PowerPoint presentation as well. And I
7 will give these to you, so you can use them as you would
8 like. And again, we're happy to answer questions.

9 If any members of the public wants this, you can
10 e-mail me, and I'm happy to e-mail you the file. It's 9
11 megs, so it's a little big.

12 VICE PRESIDENT HODGKINS: I think what I would
13 like to do is, I'm going to hold my questions here and let
14 the two of you go. And then I would like to go back and
15 kind of go through this, I don't know, sort of a piece at
16 a time in terms of what I see as the question on this.

17 Does that make sense?

18 PRESIDENT CARTER: Ben, Scott, you -- on one of
19 your slides talked about the impacts, the flood impacts
20 for water surface elevation impacts on the -- of the
21 setback, on the levees. You referenced river mile 23 and
22 a half. I was wondering where that is.

23 Can you pull up your picture here and tell us
24 where that is?

25 TRLIA SPECIAL COUNSEL SHAPIRO: I can pull the

1 picture up, and I'm going to ask Ric to identify it.

2 --o0o--

3 TRLIA SPECIAL COUNSEL SHAPIRO: I think the
4 numbers are on there, actually. So it was -- what was the
5 number again?

6 PRESIDENT CARTER: 23 and a half. You said that
7 the --

8 TRLIA SPECIAL COUNSEL SHAPIRO: So that would be
9 right around here, on the Feather.

10 PRESIDENT CARTER: You said that the water surface
11 elevation was going to be, what was it, 2 feet lower
12 than -- in a hundred-year storm?

13 TRLIA SPECIAL COUNSEL SHAPIRO: At the maximum, it
14 was 2.7 in a hundred, and 3.0 in a 200.

15 It's slide number 12.

16 PRESIDENT CARTER: Okay. So that is --

17 TRLIA SPECIAL COUNSEL SHAPIRO: The 23 and a half
18 would be right here, right upstream of where the setback
19 would be.

20 And then the other mile that we noted was for
21 Marysville and Yuba city, and that was at river mile 27,
22 which -- 25, 26, so it would be right around here, to the
23 left. It's in the middle of Marysville.

24 TRLIA PROGRAM MANAGER REINHARDT: About where the
25 Yuba City dot is.

1 PRESIDENT CARTER: Another question: You have
2 completion of the construction of the embankment,
3 basically the end of the calendar year 2008. I realize,
4 you're not degrading the existing levee, but what would it
5 take to complete that two months earlier, at the beginning
6 of November, which is essentially the beginning of the
7 water year?

8 TRLIA SPECIAL COUNSEL SHAPIRO: Ric, do you want
9 to talk about that?

10 TRLIA PROGRAM MANAGER REINHARDT: That is our
11 intent. But it's partially a function of how quickly we
12 can get started in the spring of 2008, how wet April and
13 May are, before we can start placing embankment. So it's
14 also a function of the input that the contractor has on
15 how to get this constructed. So there's a lot of the
16 details to work out. We believe that's the most time that
17 it would take. And by all means, we're going to work to
18 complete it sooner, so that we may be able to even start
19 degradation of the existing levee in late 2008.

20 PRESIDENT CARTER: Is it possible to -- let's see,
21 you're starting the foundation work --

22 TRLIA PROGRAM MANAGER REINHARDT: -- in September
23 of 2007.

24 PRESIDENT CARTER: This coming fall. Okay.

25 Then lastly we -- if you can just, on your cost,

1 your -- the 2003, 2004, 2005, your last slide,
2 essentially, you had huge jumps in cost between 2005 and
3 2007, and 2006 and 2007.

4 You kind of touched upon, perhaps, some of the
5 reasons for that in terms of change of scope. I'm
6 interested, how much of it has actually changed in scope,
7 and how much of it is that we just didn't know how big the
8 project was, that we didn't estimate correctly.

9 TRLIA SPECIAL COUNSEL SHAPIRO: Well the big jump
10 in -- let me offer kind of the overview, and I'll ask Ric
11 to add, based on his history. The big jump between 2005
12 and 2006 was the January 2005 revelation, if you will,
13 from the Corps that where they had been previously been
14 willing to certify the Feather River levee, they were no
15 longer willing to certify and actually recommended doing
16 an investigation.

17 That investigation occurred during 2005, and then
18 towards the end of 2005, beginning of 2006 is really when
19 we had a handle on what those improvements were.

20 So we had originally relied on the Corps'
21 statement that they would certify. And then when they
22 said they wouldn't, that was that big jump. The big jump
23 between 240 --

24 PRESIDENT CARTER: That applied just to the
25 Feather River?

1 TRLIA SPECIAL COUNSEL SHAPIRO: No. There were
2 minor work on the Yuba.

3 TRLIA PROGRAM MANAGER REINHARDT: It's our Phase 4
4 work.

5 TRLIA SPECIAL COUNSEL SHAPIRO: The Phase 4 work
6 on the Yuba. The work that's now been completed, that's
7 affected Linda, is around the order of magnitude of 15 to
8 \$20 million. The big jump between 2006 and 2007 is almost
9 exclusively a result of the setback levee.

10 If you will look at the jump from 240 to 354, it's
11 really a function of the additional cost of land
12 acquisition and construction with the setback. We still
13 believe we can finish the project in about 240, if we did
14 strengthen in place. We just think it's not as good an
15 option, and now that there's funding opportunities, we
16 should pursue that setback levee.

17 TRLIA PROGRAM MANAGER REINHARDT: Just one
18 correction to the cost for Phase 4 Yuba. It's actually a
19 little closer to 30 million, because there's some work
20 upstream that we haven't done yet, that's not included in
21 the cost Scott gave.

22 And then the construction cost, I think, was
23 closer to something around the order of 15 million. But
24 there was design and permitting and CEQA compliance and
25 those things. So it was pretty much closer to 30 for all

1 the Phase 4 work.

2 PRESIDENT CARTER: Okay. Thank you.

3 That's all I have for right now.

4 VICE PRESIDENT HODGKINS: I would like to make a
5 comment on these. And for those of you who don't know me
6 or anything about me, I used to be SAFCA's general
7 manager.

8 And those costs, I think, show -- I assume 25 is
9 the Corps cost, way back when, for the Yuba project.

10 TRLIA PROGRAM MANAGER REINHARDT: It was actually
11 our initial cut at what it would take to strengthen the
12 Bear and WPIC levee, provide 100-year protection.

13 VICE PRESIDENT HODGKINS: Okay. All right.

14 So you know, I don't want to say we don't know
15 what we are doing. But I'm going to tell you that focus
16 in the Central Valley on understanding the implications of
17 trying to make levees that are a hundred years old, or at
18 least pieces of them are a hundred years old, safe, the
19 way we would consider them to be safe today -- and as an
20 engineer, I hate using the word "safe," because it means
21 something different to every person out there. Okay?

22 But to bring those levees into compliance with
23 what we would consider to be current engineering
24 standards, these are -- these cost increases represent
25 developing a better understanding of how bad the existing

1 levees are, and at the same time getting more focused and
2 better understanding what the standards should be for
3 constructing the levee.

4 So I guess that what you are seeing here is a,
5 sort of, microcosm of the entire flood control system in
6 the Central Valley, because it is a hundred years old.
7 And I think it's really taken us -- in the last five
8 years, we have -- we, the engineering community, have
9 become more willing to stand up and say, "You know, our
10 past assessments have said this system was safe. We're
11 wrong. Okay? The standards have changed. We understand
12 better the importance of the foundation, the importance of
13 the materials that's in the levees, and the uncertainties
14 that we're dealing with. The levees that were not
15 constructed to any kind of modern engineering standard,
16 and they have worked remarkably well -- too well. We've
17 been able to build a lot of houses on them and rely on
18 them because at least, in some places, they've worked
19 pretty good.

20 But these cost increases, in a way, do reflect
21 that we don't know what we are doing. We are learning, as
22 we go, how bad our system is. And as we learn, the cost
23 goes up. It's a pattern you are going to continue to see.
24 And it's going to be a real challenge for the State of
25 California and the Reclamation Board and the other people

1 who have issues, the same kinds of issues to deal with,
2 with the levees that protect them.

3 So I don't know if that helps anything or not.

4 But, you know, there is a frustration with what seems like
5 constantly changing projects. And there is a frustration
6 with that, even amongst the engineering community. But I
7 guess I would have to say, the engineering community is
8 doing the best we can to make sure that when we get done
9 with levees, this time, if we're ever done with levees,
10 we've at least brought them up to current standards.

11 So if it looks like we don't know what we are
12 doing, it's because we are learning as we go.

13 Any questions?

14 SECRETARY DOHERTY: Yes.

15 You said that you were in discussion with some of
16 the landowners for the setback levee. How close are you
17 to implementing condemnation?

18 TRLIA SPECIAL COUNSEL SHAPIRO: We're not yet
19 implementing condemnation. I'm going to defer to Paul and
20 Bob Morrison with Bender Rosenthal, because I'll not
21 actively involved in the conversation.

22 TRLIA EXECUTIVE DIRECTOR BRUNNER: Condemnation is
23 a possibility. As we go to the land acquisition and the
24 timing that we have, it's not our first option, but it's
25 an option that we will strongly consider.

1 SECRETARY DOHERTY: How many landowners are
2 involved?

3 TRLIA EXECUTIVE DIRECTOR BRUNNER: Specifically?
4 Bob, could you answer that?

5 MR. MORRISON: Bob Morrison with Bender Rosenthal.
6 We're the right-of-way firm for Three Rivers Levee
7 Improvement Authority. On Segments 1 and 3, which are the
8 strengthen in place, we're negotiating with approximately
9 25 parcel owners. And there's a little bit less than
10 that, in terms of owners as a whole. There are a number
11 of people who own multiple parcels. In the setback area,
12 there are over 40 parcels with roughly 30 property owners.

13 The negotiations, the first step in all of this,
14 is determining where the levee is going to go, and then
15 fine-tuning is happening as we speak. So we don't want to
16 approach property owners until we actually know what the
17 effects are on their property, and we're determining
18 that -- those effects right now.

19 We then go out and do a boundary survey. That
20 boundary survey is being completed and/or completed on a
21 number of parcels. And then we share that with the board,
22 the Three Rivers Board, to make sure that they feel
23 comfortable with where we're headed.

24 It's after that point, we'll begin to approach
25 property owners in a more formal matter, complete an

1 appraisal, and then make a formal offer, and then
2 negotiate.

3 Our first -- our first goal is to negotiate
4 settlements. Condemnation is, and eminent domain is, our
5 last choice.

6 And so we have the large land acquisition tasks
7 ahead of us, but we are up for that challenge, and we
8 understand, and we have a game plan in place to make
9 September 2007 the beginning of the foundation contract.
10 We have a game plan in place to make that happen.

11 TRLIA EXECUTIVE DIRECTOR BRUNNER: For the middle
12 segment that we're working on, we plan to acquire property
13 in essentially thirds: Northerly third, middle third, and
14 bottom third to meet our construction schedule.

15 So we will start the foundation work in the
16 northern third, and then acquire in the central, and then
17 acquire property in the bottom in that time period. So we
18 will first try a right of entry, beginning to get the
19 property, negotiate with the -- with the landowner, but to
20 maintain the schedule, eminent domain could be used.

21 VICE PRESIDENT HODGKINS: Can we hone in on -- in
22 the interest of no surprises in the future, when do you
23 need land to start the construction of the project for the
24 schedule?

25 TRLIA PROGRAM MANAGER REINHARDT: The right of

1 entry to do construction by the end of August or early
2 September. So that's what we did on the Bear River. Is
3 that correct; Bob?

4 MR. MORRISON: Yeah.

5 TRLIA PROGRAM MANAGER REINHARDT: We got the
6 landowners to agree to allow us to go in and start
7 construction while we negotiated on the parcel. But we
8 need to have access beginning of September of this year.

9 VICE PRESIDENT HODGKINS: Thank you.

10 TRLIA SPECIAL COUNSEL SHAPIRO: And consistent
11 with what Paul explained to Lady Bug Doherty, we're doing
12 it in a cascading manner. We needed, first, August, for
13 the northern section of the setback, and then the central,
14 and then the southern. So it allows us to not have to
15 tackle 40 at once.

16 PRESIDENT CARTER: Your schedule -- your schedule
17 shows you're starting construction of the foundation in
18 April of this year, if I'm reading it right.

19 MR. MORRISON: I think that's that setback --
20 excuse me. The --

21 TRLIA SPECIAL COUNSEL SHAPIRO: No, you're looking
22 at the blue line, I think. The orange line is the --
23 yeah, you know, I think it does -- no, it's the -- the
24 third orange line from the bottom, that lines up with
25 around September.

1 Why don't we use this? You should go up there and
2 point with your hand, actually, and work your way down.

3 TRLIA PROGRAM MANAGER REINHARDT: We start
4 engineering and design for the setback levee in April of
5 2007. We're actually -- this is this item we said we're
6 going to take to the Board on March 6th. We start the
7 permitting for Segment 2. And then the -- it has the
8 construction of the foundation. That's an error.

9 TRLIA SPECIAL COUNSEL SHAPIRO: No. No. That's
10 land acquisition, Segment 2.

11 PRESIDENT CARTER: This thing is hard to read.

12 TRLIA PROGRAM MANAGER REINHARDT: Land acquisition
13 starts in April, and then the construction of the
14 embankment starts -- the foundation starts in September.

15 VICE PRESIDENT HODGKINS: Okay. So you're, in
16 effect, constructing foundation on the setback in
17 September. And if you have to acquire the right of entry
18 through condemnation, how long does that take?

19 MR. MORRISON: It's a five-month process, so
20 that's where -- we're doing it in thirds, so the
21 northern-most third, there are three property owners that
22 we're working with. And so we would end up beginning the
23 appraisal process almost immediately, and then an
24 acquisition phase, and then bringing forward to the Three
25 Rivers Board a resolution necessity in the May timeframe.

1 The governor passed a recent bill, SB 1210, which
2 lengthened the acquisition timeline, through the eminent
3 domain process, to about five months. So that's where
4 there is a segmenting. And so we can begin -- you know,
5 our goal is to have a contractor on the ground in
6 September. And so we are taking a focused approach and
7 drilling down to, which ones do we need first, and those
8 are the ones of the northern portion of the project.

9 VICE PRESIDENT HODGKINS: Okay. Now, I may have
10 missed a month here, trying to count backwards on my
11 fingers. But it sounded to me like what you said is, you
12 might have to start condemnation on some of these parcels
13 as early as April, at least in terms of going to the board
14 and getting the first step, which is the resolution of
15 necessity.

16 MR. MORRISON: -- necessity. Yeah. And that
17 would be the main time line, to get us to a mid September.

18 VICE PRESIDENT HODGKINS: Okay. Yes.

19 I just think it's important to understand. I
20 appreciate that you are trying your best to negotiate
21 these out. Getting the resolution of necessity doesn't
22 mean you can't negotiate it out, but it does mean to move
23 forward, make the progress we want to see you make in
24 terms of getting the work done so we get the safety
25 benefits.

1 You are going to have to start condemning
2 properties in April. Is that a fair statement? And
3 that's likely to continue to go on unless people give you
4 the right of entry at a fairly quick pace. Is that a fair
5 statement?

6 MR. MORRISON: Correct, that is a fair statement.

7 VICE PRESIDENT HODGKINS: Okay. I think it's
8 important.

9 Mr. Archer, you had a question or a comment?

10 MR. ARCHER: I do. I'm on your list there for No.
11 1 also to speak.

12 VICE PRESIDENT HODGKINS: Okay.

13 MR. ARCHER: Thank you.

14 The condemnation before funding, that's the way
15 Three Rivers has done this whole operation. They start
16 doing levees, and then they search for funding.

17 At this point in time, I wonder where the
18 developers are. Why are we waiting for September or later
19 to get funding? Why has the Corps not certified the Linda
20 levee? Since last April, they have sent letters after
21 letter.

22 Now, did you think they are going to certify the
23 setback levee? I'm not against this setback levee. I'm
24 just saying, that's way off in the future. Let's deal --
25 I would ask that you move to No. 1 because this is going

1 nowhere.

2 And they haven't the funding. If they did they
3 would say, "We have Corps of Engineer funding. We have
4 this funding. We have citizen funding." They have no
5 funding at this moment.

6 Thank you.

7 VICE PRESIDENT HODGKINS: Thank you. Actually,
8 that's a fair statement.

9 At what point do you have to put money out if you
10 are condemning property?

11 TRLIA EXECUTIVE DIRECTOR BRUNNER: We'll go to the
12 funding schedule. If you see the month of May, there is a
13 large dollar funding source that we've identified,
14 hopefully from the State. Where we are, it looks like we
15 put the State on an early funding proposal with them, to
16 advance funds for real estate acquisition.

17 And in May, there is a dollar amount there, that
18 represents the State. Hopefully we get that, that would
19 fund that. If we do not get that funding, we would not be
20 able to acquire that property, unless we have right of
21 entry. But the dollar amounts that we have, showing
22 there, from the State, during that time, is for eminent
23 domain action, if we have to take that.

24 TRLIA SPECIAL COUNSEL SHAPIRO: Yeah, I think
25 that's an important clarification. This -- that line and

1 some other funding on here represents an assumption that
2 we have to go to condemnation.

3 The funding timeline is actually more generous if
4 we don't go to condemnation. But that's why we put that
5 item in there.

6 And it's also important to note that, while there
7 are questions on that funding from the State, because the
8 State is not in a position to give grants, there is
9 certain guaranteed funding that's still coming into our
10 project. This funding that's on this line, right here, is
11 all Prop 13 reimbursement. And all except for, I believe,
12 this last 7.4 is already under contract with DWR. And so
13 that's funding that continues to come in and is coming
14 into our project.

15 This 7.4 is their last Fish and Game funding from
16 Proposition 13 grant. Fish and Game has essentially
17 allocated it to us. They are simply awaiting the
18 appropriation. It's a line item for Prop 13. And it can
19 only go to work on the Feather/Yuba. And this is the work
20 that it's been dedicated to.

21 And then the other funding that's essentially
22 already in the bank is this 2.3 million right here, under
23 "Projected Participating Landowner Capital Call." That's
24 money already in escrow. So it's certainly not a correct
25 statement that we don't have funding coming to the project

1 at this time.

2 VICE PRESIDENT HODGKINS: Okay. But for clarity,
3 to be sure I understand and so other people understand as
4 well, you have currently 2.3 million that would be
5 available to work on between now and May?

6 TRLIA SPECIAL COUNSEL SHAPIRO: Yes. And we have
7 each of these Proposition 13 reimbursements, which, matter
8 of fact, Paul, you have to tell me. But a number of
9 these, we have already submitted the invoices and we're
10 just waiting for -- we're waiting for checks from DWR;
11 correct?

12 TRLIA EXECUTIVE DIRECTOR BRUNNER: That's true.
13 Absolutely.

14 TRLIA SPECIAL COUNSEL SHAPIRO: These are
15 contracted reimbursement programs from DWR. We have the
16 contracts. We've submitted invoices, and every month we
17 submit more invoices and get more reimbursement.

18 VICE PRESIDENT HODGKINS: So the -- in addition to
19 the -- that's money that you have somehow advanced and
20 expended?

21 TRLIA SPECIAL COUNSEL SHAPIRO: That's the way
22 DWR's Proposition 13 program worked; it was an advanced
23 reimbursement program. We've talked with DWR about the
24 need. As local communities do advance work in the future,
25 that would be an upfront grant program, similar to a

1 program being done in the Brannan Andrus Levee Maintenance
2 District down in the Delta, because of the difficulty of
3 locals coming up with millions of dollars to simply be
4 reimbursed. But yeah, that's a reimbursement program.
5 And that's why it shows as later money, even though we
6 already have the contracts to get the money from DWR.

7 VICE PRESIDENT HODGKINS: Rod, can you speak to
8 that, or is that in another branch here? This is a
9 reimbursement under Proposition 13.

10 MR. MAYER: I'm Rod Mayer, Chief of Division of
11 Flood Management. I couldn't speak to it except to say
12 that we do have a process just as was described, with
13 respect to reimbursing. And there are contracts. We do
14 need to review the invoices, make sure that everything
15 looks correct.

16 Sometimes there are questions, and it goes back
17 and forth. And we also have, at this point, one staff
18 member in this program. So there has developed a bit of a
19 backlog. We're doing the best we can to stay up with it.

20 So for any particular claim, I can look into it,
21 but I couldn't speak to it other than in generalities.

22 VICE PRESIDENT HODGKINS: Okay. But what I think
23 I heard, and I would encourage you to correct me if I'm
24 wrong, is with respect to the line item up there that is
25 Proposition 13 reimbursements, and other than, kind of,

1 the normal ins and outs of getting a payment made, that
2 money is there, it's committed, and it's reasonable to
3 expect it. And you guys, if you yell loud enough, will be
4 able to get the money when you need it, if somebody else
5 doesn't yell louder. But -- okay.

6 TRLIA EXECUTIVE DIRECTOR BRUNNER: It has been a
7 main area of emphasis to get Prop 13 funds.

8 VICE PRESIDENT HODGKINS: I do understand that.

9 Mr. Archer, do you have a question?

10 MR. ARCHER: Yes. That money has already been
11 spent; has it not?

12 VICE PRESIDENT HODGKINS: That's what I'm being
13 told.

14 MR. ARCHER: So it can't be spent for the new
15 programs. It can't be spent to finish the Linda levee.

16 Just a moment, Mr. Brunner.

17 It can't be spent to do the finish work on the
18 Yuba levee, which I'm going to show you here. And they
19 borrowed \$10 million from Plumas Lake Road Fund. That
20 isn't shown up there as a debit. So where's that
21 \$10 million? Is it going to be made back to Plumas Lake.
22 Has it been made back to Plumas Lake? It's not up there
23 that I can see.

24 VICE PRESIDENT HODGKINS: Let me tell you what I
25 am understanding. You tell me whether you disagree first

1 with me, and then if we need clarification, we'll go with
2 them. Okay?

3 But in essence, wherever you get the money to
4 advance fund work, that you had a reimbursement agreement
5 for under Prop 13, that money, as you receive the
6 reimbursements, is worked into the schedule. So you may
7 have borrowed money from -- or -- but that's really the
8 local agency's prerogative to make sure they are doing
9 things properly there. But is the money that's coming
10 back in for the reimbursements being used to repay, or is
11 it money that's available to do work that's coming up?
12 Where is it going?

13 If I asked you to put a line on here that said,
14 "cash in the bank for Three Rivers levee projects," what
15 would it look like?

16 TRLIA EXECUTIVE DIRECTOR BRUNNER: The cash in the
17 bank. The money on Prop 13, right through here, is where
18 we have cash in the bank. We have signed contracts with
19 the state to deliver money. What happens there is, we use
20 money up front, usually from the developers, that have
21 provided money through one of the capital calls that we've
22 used in a program. We spend the money, do the work, and
23 then we send the invoice to the state for reimbursement.

24 When that reimbursement comes in, which these
25 dollars represent, the reimbursements that are left under

1 the signed grants with the state, we receive that money
2 and we apply it to our program, which pays more bills to
3 move forward.

4 VICE PRESIDENT HODGKINS: Okay.

5 TRLIA SPECIAL COUNSEL SHAPIRO: And the only
6 additional thing that I think is important to get the
7 complete picture is, there was a loan from the County of
8 Yuba. It's a public loan. All but 2.5 million has been
9 repaid.

10 So your question was, is that money in the bank?
11 And that answer would be, yes, all of it except 2.5
12 million that, at some point, will be needed to repay that
13 final loan to Yuba County.

14 VICE PRESIDENT HODGKINS: Okay. All right.

15 So what I heard was, whatever loan -- now, is that
16 a loan from the Road Fund or whatever it was?

17 TRLIA EXECUTIVE DIRECTOR BRUNNER: It is a loan
18 from the Road Fund. In discussions with the County, the
19 impact in the Road Fund can be deferred until the May/June
20 timeframe. And the board of supervisors are going to be
21 considering that, I believe, tomorrow, to extend that loan
22 to that point, time period.

23 TRLIA SPECIAL COUNSEL SHAPIRO: They don't need
24 the money until the summer to build the road.

25 VICE PRESIDENT HODGKINS: To build the road.

1 Okay.

2 And so if you get the money -- you could, in
3 effect, modify the chart to show that we're paying --

4 TRLIA EXECUTIVE DIRECTOR BRUNNER: This plan
5 actually includes repayment. The financial plan, that you
6 see there, includes repayment of the 2 and a half million
7 by June.

8 TRLIA SPECIAL COUNSEL SHAPIRO: If you look at the
9 total expenses line, the June \$6 million in total
10 expenses, toward the bottom of the chart, that includes
11 the \$2.5 million county loan. So that this 6 million
12 right here, that's 2.5 million of that expense is
13 repayment of that loan. So it's on here. It's just
14 not -- we changed many lines to try to make this readable.

15 VICE PRESIDENT HODGKINS: I appreciate that.

16 Okay. Okay. So they are paying it back.

17 MR. ARCHER: Mr. Vice President.

18 \$10 million that they borrowed from the Plumas
19 Lake is what I asked the question about. The \$10 million
20 they borrowed from Plumas Lake, to fix their roads, to
21 start their new roads down there, was to be paid back two
22 days from now, the 28th of February. They are planning on
23 it. They have talked about it on their Web page.

24 Now, is that -- that isn't included up there, I
25 don't guess. Maybe it is. But that 10 million, is that

1 going to be like everything else, moved off into the
2 future or -- it's the funding I'm getting at here. They
3 have no funding.

4 VICE PRESIDENT HODGKINS: Well --

5 TRLIA EXECUTIVE DIRECTOR BRUNNER: I think I would
6 like to clarify and make sure. There was a ten minute --
7 ten minute -- \$10 million bridge loan that TRLIA could
8 have used, of which we did borrow 8 million. We have
9 repaid 5.5 already. And we have two and a half left. And
10 we plan to pay that off by June.

11 TRLIA SPECIAL COUNSEL SHAPIRO: And the two and a
12 half million dollars we borrowed actually shows up as a
13 previous expense.

14 VICE PRESIDENT HODGKINS: All right. And I
15 appreciate that. I guess from my standpoint, some of
16 these, the amount of money from Yuba County to TRLIA and
17 borrowing from developers are issues that are legitimate
18 public issues, that should be dealt with, not by the
19 Reclamation board, but really by the Board members that
20 have to make those decisions.

21 And so I think from my standpoint, where I am now,
22 is, I think they are in fact saying that the issues you
23 raised are in their cash flow that's shown here, and those
24 loans are going to be repaid, whether exactly when is not
25 really a Reclamation Board issue, but certainly something

1 that's legitimate, to be pursued with the board of
2 supervisors and the TRLIA Board.

3 MR. ARCHER: All right. But the thing that is
4 your issue is do they have the funding to go forward,
5 because they said they had the funding when they moved the
6 Linda levee into 2006, from 2007. Do they have the
7 funding? The Yuba County Water Agency loans them money,
8 but the Yuba County Water Agency is the board of
9 supervisors. It's not to do with you. But I'm saying,
10 where is the money going to come from? In the future, it
11 needs to say I want to buy a car. Where's the money?

12 VICE PRESIDENT HODGKINS: Where I hope to get,
13 here, in the end, is to appoint where we have an agreed
14 upon set of amounts of cash that they, in effect, say they
15 need to fund the program. And we have a method of
16 determining, as each of those times come up, when that
17 money's needed, whether or not they have the money.

18 So, okay. You understand what I'm saying?

19 MR. ARCHER: I understand.

20 VICE PRESIDENT HODGKINS: I just want to get
21 focused on understanding what do I need to know to be able
22 to turn Rec Board staff loose to say, "Go talk to TRLIA,"
23 and, you know, get them to show you that they have the
24 money to move forward in the next stage. That's where I
25 want to go.

1 Sir?

2 MR. NIESCHULZ: Dale Nieschulz. I have a
3 question. I farm in the southern part of the district,
4 including the Section 4 down there. Well, I'm in Section
5 2, I guess.

6 Well, what I'm concerned about is Rex bringing up
7 funding, which brings a good question up, of nowhere along
8 the line do I see how much you put up or much funding you
9 have to acquire our farming ground. Our particular piece,
10 the levee, setback levee, will essentially put us out of
11 business. So when you dig that trench, whenever you do
12 it, which is supposedly in fall of this year, our
13 operation cease to exist.

14 If you don't have the money to put the levee back
15 up, we can sit there with part of our ground just bare and
16 part of it inside the supposed levee or part of it out,
17 whereas, in our case, it's mostly taken up. So we will be
18 put out of business.

19 Now, if you use eminent domain on this, where did
20 you come up with the price?

21 Developers across the street from us are getting
22 30 to \$60,000 per acre. If are you offering us 10,000,
23 you are putting us out of business. There's no place to
24 farm in Yuba County. You are making a 50-year operation
25 ceasing to exist. We have all of our family. We're very

1 emotionally tied to the Yuba County area. What are you
2 going to do for us? We're out of business; we got no
3 income.

4 So what do you set aside for us as far as
5 potential -- like he's saying, do you have the funds, put
6 us out of business, or are we going to sit there, ten
7 years, while you get the funds in place?

8 TRLIA SPECIAL COUNSEL SHAPIRO: I guess it's
9 important just to note that under state law, if we do go
10 do condemnation, we're required to deposit funds with the
11 Secretary of State in advance of taking the land. There's
12 no risk of us taking the land and then ten years passes
13 and we haven't paid anything.

14 But I also think it's important, without breaching
15 the confidentiality associated with ongoing negotiations
16 related to land that was currently coming into our
17 program, that the cost estimates that we've used on the
18 Bear River are roughly comparable with estimates we have
19 seen from people who are -- whose land we were condemning
20 on the Bear.

21 In other words, we set a price that's roughly
22 comparable with what they showed us they thought their
23 property was worth. So we are taking into account true
24 value. We have the deposit the money, before we take the
25 land, before it goes to condemnation.

1 MR. NIESCHULZ: That's not really true. You are
2 fighting Dannon and Dannon right now in court on that
3 matter, are you not, that you did not get the amount that
4 you --

5 TRLIA SPECIAL COUNSEL SHAPIRO: Again, I'm not
6 going to breach the confidentiality of ongoing
7 negotiations. I'm not allowed to under state law.

8 I will simply tell you that the estimates they --
9 the estimates they have showed us are roughly comparable
10 with the amount we budgeted for the Feather River land
11 acquisition.

12 MR. NIESCHULZ: Okay. But there's a big
13 difference between giving us 10,000 an acre. And in ten
14 years, all the Plumas Lake area is bought up by
15 developers. Once that's bought up and developed, then the
16 rest of us are able to sell ours in at a larger price. 30
17 to 60 thousand dollars, ten years down the road, which we
18 plan on keeping our ground, will be 60,000 an acre.
19 That's a big difference between 10,000.

20 So if you condemn us and give us 10,000 an acre,
21 that's nothing. You have that in your contingency plan.

22 TRLIA SPECIAL COUNSEL SHAPIRO: Well, I can tell
23 you, the number is not 10.

24 MR. NIESCHULZ: Okay. 17.

25 TRLIA SPECIAL COUNSEL SHAPIRO: That's another

1 option.

2 MR. NIESCHULZ: We were offered 10 two years ago
3 at one of the meetings I went to. And I heard reports of
4 6, and now it's up to 17. I have the facts and figures.

5 VICE PRESIDENT HODGKINS: Yeah, you know, I
6 think -- and again, right now, I'm going to speak for
7 myself.

8 I've got you.

9 MS. HOFMAN: Hi. My name is --

10 VICE PRESIDENT HODGKINS: May I make my point
11 first?

12 MS. HOFMAN: Sure.

13 VICE PRESIDENT HODGKINS: The way condemnation
14 works is, they have to put the money in the bank for their
15 appraised value of the land.

16 And you guys correct me if I'm wrong, here,
17 because these things change as we go along, but you have
18 the right, once that money is in the bank, to draw against
19 it in any way you need to, in order to, you know, not have
20 your lifestyle -- wrong word, but so that you are not
21 deprived of having the money you need to be able to do the
22 things that you need to do.

23 It doesn't -- drawing on the money doesn't put
24 them in a position of -- put you in a position of agreeing
25 to their price. That's determined by the Board. But the

1 money is there, if you need it, for ongoing expenses of
2 some sort.

3 Am I correct?

4 MR. MORRISON: Yes.

5 MR. NIESCHULZ: But that doesn't address yearly
6 income that we get off the ranch. That is our livelihood.

7 VICE PRESIDENT HODGKINS: I wish I knew how to
8 address that. Okay? But that's, I think, what the
9 condemnation for access and the forms are for.

10 I understand both sides of this argument. I am
11 not Solomon; I don't have a solution. I leave it to the
12 judge and the jury to determine what's fair. And my
13 experience has been, usually, that what the judge and the
14 jury determine was fair was way more than what I thought
15 was fair, based on what I knew going in. But I have been
16 usually the condemner, not the condemnee. So just to
17 be --

18 MR. NIESCHULZ: Well, in our case, I'm saying, how
19 do you evaluate a tree that you get, walnut tree, that you
20 get 50 years of production off of, and they want to give
21 you 10,000 or 17,000? That would seem --

22 VICE PRESIDENT HODGKINS: I appreciate that. But
23 I -- there's nothing that I can do. Or I guess the Board
24 could do something if it wanted to. If they came to the
25 question that they didn't feel that the public necessity

1 of acquiring the land justified condemning it, then they
2 could say, "We're not going to support this." Okay?

3 I personally don't come from that position,
4 because I understand the problems with this system. And I
5 think this is one that needs to be fixed.

6 The Corps is, unfortunately, where the equity of
7 the final amount is dealt with. And I can't change that.

8 MR. NIESCHULZ: I guess I just didn't like the
9 statement that sometimes the court gives more money than
10 you think would be justified in a situation, where you
11 would not see how much livelihood we put into that since
12 the 1997 flood. That's ten years -- that's ten years of
13 our life we've lost, and now it's taken away from us.

14 PRESIDENT CARTER: You've got to bear with him.
15 He's not a farmer, so he doesn't know these things.

16 VICE PRESIDENT HODGKINS: But I believe there's
17 something there, that I don't understand totally. But
18 that's the best I can do.

19 Did you have a question or a comment?

20 MS. HOFMAN: I have several questions on this
21 subject. My name is Frances Hofman.

22 I understand that TRLIA has entertained a
23 condemnation. The people didn't oppose it. As I
24 understand, if they oppose it, their timeframe of five
25 months is shot, because they are now as new, as I

1 understand issues. And I'm saying that the Reclamation
2 Board should contact their legal counsel to see what the
3 loopholes is, in condemnation.

4 TRLIA does not have the money even budgeted to go
5 out and pay for 1500 acres at even the price they are
6 taking, because when April 1 comes, they should have that
7 money in deposit so they can start their condemnation. If
8 they can't, their project is a problem, and this project,
9 this whole scenario -- I mean, we say, it's the Army Corps
10 of Engineers changed their things. I mean, we went from
11 25,000 -- I mean, 25 million. We added on another
12 15 million. But we're at 180 million. There's a lot of
13 gaps.

14 And what I'm saying is, you're talking about --
15 this is just the Reclamation Board. That road money was
16 supposed to be used in order to help get the people out.
17 Now, if they can start working on the levees over there,
18 they can start working on the roads. And what I'm saying
19 is, the money should be there so the first day that you
20 open up for the flood is gone, the road money should be
21 there. From the Reclamation Board's point -- because you
22 approved this project on them doing certain road things,
23 and to get the people out. We went a whole year from the
24 time you were here last time, almost, and we haven't seen
25 anything done.

1 Now we find out, money isn't even available to
2 them until June. The road department should have its
3 money in order to build the roads.

4 I say, that's the problem of the Reclamation
5 Board, to see that what you've already approved, they do
6 to protect the people, that the monies are in the bank.
7 And they are saying it takes five months and they want to
8 start the middle of September. They have to have that
9 money in hand by the first of April or the middle of
10 March, if they are going to meet their five-month
11 deadline. That's saying everybody rolls over and plays
12 dead. And what I'm saying is the Reclamation Board's
13 responsibility to see that these gaps -- and I'm asking
14 that your legal department look into this condemnation,
15 because we haven't settled the condemnation from the
16 setback levee. And when did they -- when did they start
17 that? Two years ago.

18 What I'm saying is, condemnation can move much
19 faster through the court system. But what I'm saying is,
20 we don't even know today, when we sit here, as citizens,
21 nor does the Reclamation Board know if they can pay for
22 the condemnation, that they now have on board and meet the
23 schedule that they told us. There is nothing on that
24 schedule that says how much is in reserve for the
25 condemnation. That's all I'm saying to the Rec Board.

1 That they need to know that the monies that have been
2 promised out for the condemnation -- he mentioned Dannon
3 Brothers, whoever it might be, that those monies that are
4 there and their attorney fees if they are suppose -- in
5 all the conditions.

6 I don't see any of these estimates. I have went
7 to Three Rivers and I have asked for it. And you can't
8 get it as a citizen. I'm just asking the Reclamation
9 Board to protect the people in Yuba County to see that the
10 money that they have promised that they have got is
11 actually there. And it isn't detailed -- I mean, it isn't
12 pinpointed to go to someplace else. We are down to
13 1.1 million in April. And what I'm saying is, we don't
14 know if their last condemnation is going to cost them
15 that.

16 TRLIA SPECIAL COUNSEL SHAPIRO: Which I think I --

17 VICE PRESIDENT HODGKINS: The point is well taken.

18 TRLIA SPECIAL COUNSEL SHAPIRO: Yeah. I and Bob
19 would be happy to meet with Nancy or Scott to talk about
20 the condemnation issues to address the question. I also
21 think it's important to note that the cash flow actually
22 has included in it, as a projected expense, the difference
23 between the appraisal that we've received from the
24 outstanding condemnation and the money we have put into
25 escrow already. So we have budgeted to have to pay every

1 penny of the requested appraisal. We believe we don't
2 have to. We have budgeted it, and it's in there already.

3 And I also think it's important to note that we
4 don't begin acquiring in April, 1550 acres of land for the
5 setback levee. We begin in April acquiring the top third
6 of the right of way required for the levee itself. And
7 then the next third, and then the final third. And then
8 we can begin to acquire the land behind the levee. And
9 that's why you don't see an expense in the short term for
10 1550 acres, but that cash flow has every acre included in
11 it. And as some of you know, we have an extensive cash
12 flow spreadsheet that's not collapsed like that one, and
13 that answers and has all of the information that the
14 people are talking about.

15 It's a confidential document because it includes
16 in there appraisals, which are confidential under state
17 law. We can't release that. But it's not true to say we
18 aren't accounting for it. It's all in there.

19 VICE PRESIDENT HODGKINS: Do you understand what
20 he said? He said that their take includes money for the
21 difference between what the property owner says in the
22 existing condemnations, the value of the land is, and what
23 they say it is. So they say they have the money in their
24 projection for covering the worst case scenario, which is
25 the court gives the property owner what the property owner

1 thinks the land is worth; is that correct?

2 TRLIA EXECUTIVE DIRECTOR BRUNNER: That is
3 correct.

4 I'm going to make sure it's clear that the money
5 that we have, for land acquisition, is dependent upon our
6 agreements with the State. So does TRLIA have the money
7 in our bank account today? No. Do we have money planned
8 in negotiations with the State, under Prop 1E, into the
9 future, for what we are doing or even advanced early
10 funding on the project, to do this project in the schedule
11 that we have? We think that we have agreements that will
12 be set in place to do that.

13 VICE PRESIDENT HODGKINS: Help me understand --
14 let me get you next. Help me understand, is it the Prop
15 13 money? Is that part of it? All of it? Or is it 10,
16 10 and 10 I see up there, under early implementation
17 funds.

18 TRLIA EXECUTIVE DIRECTOR BRUNNER: The 10, 10, and
19 10 is for land acquisition. At least our current plans
20 that we have, talking with the state and negotiations, the
21 10, 10, 10 is for property acquisition. The Prop 13 will
22 be spent on our TRLIA construction projects that we have
23 underway today and into the future.

24 The 2.3, in March there, will be spent on our
25 construction efforts. There's designs that we have for

1 the setback.

2 VICE PRESIDENT HODGKINS: Okay. And for the
3 existing condemnation, the money will come from the
4 reimbursements under the grant?

5 TRLIA SPECIAL COUNSEL SHAPIRO: Yes.

6 TRLIA EXECUTIVE DIRECTOR BRUNNER: The existing
7 condemnation from past history? You mean the ones for the
8 Bear?

9 VICE PRESIDENT HODGKINS: That are still
10 unresolved for the Bear.

11 TRLIA EXECUTIVE DIRECTOR BRUNNER: Those are
12 financed under Prop 13 funds, and we have them in the cash
13 flow to pay off. We have that money in our bank to pay.

14 TRLIA SPECIAL COUNSEL SHAPIRO: So that revenue
15 line, which is based on existing reimbursement contracts
16 with DWR, plus what's in the bank, plus money that's
17 already in escrow, is enough to cover all of those
18 activities including that difference between the
19 landowners' appraisal and what we put into escrow.

20 VICE PRESIDENT HODGKINS: Okay. Nancy? I am
21 going to ask you and staff to look into this.

22 MS. HOFMAN: I'm sorry. I couldn't hear you.

23 VICE PRESIDENT HODGKINS: I'm asking our attorney,
24 because I -- I do respect the fact, when it comes to
25 property acquisitions, they have to represent their client

1 which is TRLIA. Okay?

2 But I'm saying our attorney will work with them,
3 perhaps with me, although I may not be able to get in
4 there, and we will be certain that we don't have, you
5 know, kind of a house of cards situation here, which I
6 don't think this is, but we will be absolutely certain.

7 MS. HOFMAN: Sir, if you are going by the 10, 10,
8 and 10 for the property acquisition, that means they are
9 not going to start construction until November, because it
10 doesn't count -- if we don't know what part of May it
11 comes down, they can't even take their resolution
12 necessity on that end, as I understand, until they have
13 got the money.

14 We don't know if the money is going to come in the
15 first of May or the last of May. So you have to figure
16 June, July, August, September, and October. So that means
17 that that first leg of that, unless they have the money,
18 possibly couldn't start, if the landowners hang together,
19 until November.

20 What I'm saying is, this scheduled money needs to
21 be put up, further ahead, for the Reclamation Board's
22 point, so that they can do condemnation the 1st of April
23 or the 15th of March, or whenever they want to do it, to
24 make their schedule.

25 But if you have the money two months after when

1 they really should be starting, you can't represent to the
2 Reclamation Board that you are going to start on the 1st
3 of September, because you only have June, July, and August
4 is three months to get your money, because you don't
5 know -- I mean, if they had the dates down --

6 VICE PRESIDENT HODGKINS: While I'm not a hundred
7 percent on a month by month basis, keeping up with you, I
8 think I understand what you are saying which is that --

9 MS. HOFMAN: Thank you.

10 VICE PRESIDENT HODGKINS: -- if you file a
11 condemnation, the \$10 million may not be enough to cover.

12 Can you explain to us how that works?

13 TRLIA SPECIAL COUNSEL SHAPIRO: I didn't hear the
14 question. Can you repeat it?

15 VICE PRESIDENT HODGKINS: The \$10 million that you
16 show coming out of early implementation funding, the first
17 payment in May, and we backed up and said you would have
18 to do the resolutions in April, which I assume you can do.
19 You need the resolution to go to the court and actually
20 get the order of possession. But can you explain to me
21 how the 10, 10, and 10 works and still covers that and
22 keeps you on the schedule.

23 MR. MORRISON: And so again, it's in the thirds.
24 So we start with the northern third, which is a little bit
25 less than 10 million. And it's at that case, we do an

1 appraisal, we negotiate, and, if necessary, go to a
2 resolution of necessity. And what Scott outlined before
3 was, once we go to court, the next step is to go
4 towards -- to the court and file with the court. And at
5 the same time, we need to hand them a check. And so
6 that's -- that's taken into account.

7 So that check is deposited with the State Treasury
8 and can be drawn on at any time. So that's where we
9 include that, hand in the check to the State Treasury, in
10 this cash flow. And our goal is to outline in that check
11 any crop losses, the land value. And crop losses are a
12 big deal. We actually work with each agricultural entity
13 to understand where and when their crops are harvested and
14 how we are going to affect them. And then we'll also work
15 to determine, in the after condition, are they still going
16 to have ongoing concerns.

17 So that's one of the key things that we are doing
18 here, in the very near future. And I apologize to the
19 property owners. We're moving very quickly though to get
20 to them and talk to them on an individual basis to
21 discuss.

22 VICE PRESIDENT HODGKINS: Okay. I think, here's
23 the -- you know, at least thinking about our next meeting
24 and where we are going, is some understanding of how the
25 10 million and the land parcels, that are actually out

1 there, all works together, to keep you legitimate in terms
2 of being able to condemn the land, to start work on the
3 foundation, through the coming winter.

4 TRLIA SPECIAL COUNSEL SHAPIRO: We would be happy
5 to provide a more detailed timeline.

6 Would it be appropriate to take a five- or
7 ten-minute break?

8 VICE PRESIDENT HODGKINS: We're supposed to be out
9 of here in ten minutes. I don't think we're going to make
10 it. But yeah, why don't we do that. We've been here
11 almost two hours.

12 We will reconvene at 11 o'clock on the button,
13 please.

14 (Thereupon a break was taken in
15 proceedings.)

16 VICE PRESIDENT HODGKINS: We are back in session.
17 And I -- we have been discussing condemnation and how that
18 fits into the cash flow. And so you understand, in my
19 mind, our attorney, and myself and Rec Board staff are
20 going to work with TRLIA so that we have a good
21 understanding of where we are with respect for -- to the
22 cash flow covering existing condemnations that are, in
23 effect, in court as well as future condemnations. And
24 that will be something that we will present publicly at
25 the next meeting.

1 I have several other cards. We have this room
2 only till 1:00 o'clock. So we need to be done by then, if
3 we can.

4 And I want to ask, without trying to look through
5 these cards, is there anybody else who wants to talk to
6 the issue of condemnation? Because I'm next going to ask
7 Rod, who's the program manager for the state in this early
8 implementation of funding to talk to us about his reaction
9 to what they put up there.

10 So anybody else want to offer a comment publicly
11 on the condemnation portion of the cash flow. And I have
12 been told, and it's true, that no other public agency has
13 ever gotten into this much detail in front of the
14 Reclamation Board. And that's partly my fault. It's the
15 nature of my brain. It may be inappropriate, but I can't
16 help it.

17 Yes, sir.

18 MR. RICE: Thomas Rice. Rice River Ranch. Very
19 quick question/comment. I don't need a response today.

20 But it seems that when we are doing this
21 acquisition staging, planning, counting by thirds, that we
22 actually are increasing our risk, because if we find an
23 acquisition issue or an eminent domain issue in the last
24 third, we no longer have any flexibility to say were there
25 adjustments we could have made in other acquisitions?

1 We don't have a plan there, that we sort of built
2 a railroad all the way to Utah and it can't meet, coming
3 back the other way. For a project of this magnitude and
4 this timeline and this risk, it seems like we should be
5 looking at doing all the negotiations, acquisitions, and
6 agreements in concurrence with the design, up front.

7 VICE PRESIDENT HODGKINS: Thank you.

8 MR. ARCHER: I would call for a audit of Three
9 Rivers to be delivered to you in this coming month.
10 Rex Archer.

11 VICE PRESIDENT HODGKINS: Thank you.

12 Okay. There are -- there are three things I want
13 to go back through a little bit here. I want to talk a
14 little bit about the claims that have been made here for
15 the hydraulic benefits. I understand we have a
16 representative of the Corps who -- ah, there he is -- who
17 can speak to briefly, at least, to the certification
18 issues, so that we all know where that stands.

19 And I think, you know, from my perspective,
20 thinking for myself only, my main concern about that is,
21 is there any reason at this point -- getting a project
22 certified by the Corps takes a lot of detailed information
23 to satisfy the Corps' technical people. And that's
24 appropriate. And that can take some time to get through.
25 But I want to know, really, if there's any problems that

1 have been identified at this point.

2 But before I go on to issues that are really not
3 so much focused on the money, which is candidly the basic
4 issue here, I want to ask Rod, if you could, if you would
5 introduce yourself, explain your role, and talk to us.
6 The representation that's been made here is that
7 potentially \$10 million in early implementation money
8 could be available in May?

9 TRLIA SPECIAL COUNSEL SHAPIRO: We've projected
10 \$10 million for May.

11 VICE PRESIDENT HODGKINS: In May.

12 TRLIA SPECIAL COUNSEL SHAPIRO: We've projected.

13 VICE PRESIDENT HODGKINS: About the reality of
14 that.

15 And then we don't need to go into a great deal of
16 depth about the subsequent funding for the actual
17 construction work, because that's going to be part of the
18 budget, and we won't know the outcome of that until we see
19 the outcome of the budget.

20 So Rod, can I get you to tell us a little bit
21 about yourself and what you think about \$10 million
22 projected in May?

23 MR. MAYER: Certainly. About myself, I'm Chief of
24 Division of Flood Management. And we talked a little bit
25 about this project. This setback levee project is a type

1 of a project that DWR is very interested in seeing
2 implemented in the Central Valley. We're very interested
3 in funding projects like this. We've had several meetings
4 at the highest management levels in the department as well
5 as at staff levels, to work through many technical issues.

6 We've been very supportive of what we can to
7 facilitate progress on the project. We developed, with
8 bond funding that was approved in November, a new program.
9 We're developing a new program called the State Federal
10 Flood Control System Modification Program, and it would
11 have in it early implementation projects.

12 And in developing this program, we had in mind
13 projects just like this.

14 We budgeted for the early implementation projects.
15 The governor's budget has \$200 million proposed. And part
16 of the \$200 million budget thinking was that this is a
17 very large project. It would take a fair amount of that
18 pot. And there are other projects out there as well,
19 which when we looked at the ones that are at least on our
20 radar screen, they added up to about \$200 million. So we
21 felt that it's very important to put in appropriate
22 funding that we could fund this, provided it were to be
23 selected by the Department of Water Resources for funding.

24 In developing a new program, there's a lot of
25 process that one must go through. One of the processes is

1 determining what are the criteria by which we would
2 implement projects. How do we identify the projects we
3 will fund versus the ones that we will not fund? And we
4 proposed criteria that are in the Governor's Bond
5 Expenditure Plan, which we expect to be released very
6 soon.

7 Once the governor has reviewed and approved
8 expenditure criteria, then we can use that criteria to
9 develop a grant solicitation package. We proposed
10 criteria, that many of you have already seen, regarding
11 these early projects that the governor is considering.

12 Now, once that decision is made and we are able to
13 finalize a grant solicitation package, which is under
14 development right now, we can then solicit grants, grant
15 proposals, I should say. This would be one project where
16 we would expect that once we put out the proposal package,
17 that we will receive something back in a matter of weeks.
18 And we need to determine, on a reasonable time frame, what
19 is a reasonable time frame for these projects to apply?
20 So right there, probably something on the order of six
21 weeks is what we are thinking, once we put out the
22 packages, for them to come back and submit their
23 proposals.

24 And it will take time for screening, and we will
25 end up at the end of the screening process, which will

1 also take several weeks to then get back to the projects
2 that are selected and ask them about cost-sharing and
3 their financial capabilities. And we will develop
4 cost-sharing proposals based upon the various submittals
5 that we see before us, the various types of projects.
6 We're unable at this time to say what the cost-sharing
7 rules are until we see the type of projects. And so there
8 will be a second round, based upon the cost-sharing and
9 the funding capability, financial capability, of the
10 various applicants.

11 And then after they submit their second package,
12 we will then do a final screening of projects and
13 determine cost-sharing for those projects and decide who
14 the project proponents are that will receive DWR funding.

15 We expect this whole process to take about four
16 months, which then means we really won't be in a position
17 to make any financial commitments or decisions until
18 around June. That's our best estimate at this point.

19 At that point is when we would then be in a
20 position, if a project needs a fast infusion of cash, to
21 look at ways to provide such an infusion.

22 I note, on the projected schedule, they would like
23 \$10 million from early implementation projects in May. I
24 don't see that that's doable under the schedule that I
25 just laid out for you. The next 10 million for July, that

1 looks much more doable and looks like it fits under our
2 schedule.

3 VICE PRESIDENT HODGKINS: Okay. So it's
4 conceivable that they might be able to get \$10 million out
5 of the State, right around the end of the fiscal year?

6 MR. MAYER: Or the beginning of next fiscal year.

7 VICE PRESIDENT HODGKINS: Okay.

8 MR. MAYER: If the project is selected.

9 VICE PRESIDENT HODGKINS: Okay.

10 MR. MAYER: And the Legislature appropriates the
11 funds that have been proposed in the governor's budget.

12 VICE PRESIDENT HODGKINS: So even the 10 million
13 is a question of appropriation, that first 30 million for
14 land acquisition.

15 MR. MAYER: I think so. There is a continuously
16 appropriated fund, but we would need to be very careful
17 about using it and committing funds when the whole
18 appropriation to make the whole project make any sense is
19 in question.

20 TRLIA SPECIAL COUNSEL SHAPIRO: Butch, we
21 appreciate this clarification on the schedule. And I
22 guess we would propose that on March 9th we come back and
23 show you what a revised cash flow and project schedule
24 would look like, in light of this new information.

25 VICE PRESIDENT HODGKINS: Okay.

1 Sir?

2 MR. HARRIS: Tom Harris representing Hofman Ranch.

3 I'm referring back to the slide Mr. Shapiro put up
4 that identified how the full setback levee approach would
5 work. My question to you, Mr. Mayer, is that as you go
6 through the process, under the assumed 1A, 1E, or 194
7 money, how is that then going to be appropriated with the
8 Corps of Engineers and FEMA as it relates to how the
9 project in fact will be constructed, integrated? What I'm
10 referring to -- and I don't know if you were there at the
11 last board meeting, Reclamation Board -- Pete Rabbon gave
12 an outstanding brief informed about the integration of DWR
13 processes, Corps of Engineers processes, FEMA processes,
14 Reclamation Board processes.

15 It was put up on the board that the intent here is
16 to try and tell you what they are talking about is a
17 setback levee, but call it a backup levee, in order to
18 move through the California process, while you're sitting
19 over here with a 900-pound gorilla called the federal
20 process under FEMA. I made this comment to Three Rivers
21 before. And they're not surprised by it. It seems to me,
22 the issues of 408 permit is very germane here as well as
23 404. It's a project. And by piecemealing it, which is
24 what I think the gentleman over here referred to, on the
25 railroad to Utah. The bottom line is, part of the

1 criteria that you will be looking at, from DWR's
2 perspective, doesn't do that integration and look at this
3 as a full project integrated with federal and state
4 permits in a timely fashion, so that you are not advancing
5 money against a project that may or may not ever migrate
6 from a backup levee to a setback levee.

7 Thank you.

8 MR. MAYER: I don't think we would hold up cash,
9 from the state perspective, pending completion of a 408
10 process, which makes it -- which would convert the levee
11 from a backup levee to a setback levee.

12 We think that the approach laid out, of
13 constructing near the backup levee and using the state
14 funding, if state funding is provided, after going through
15 the process, is the most rational approach and avoids any
16 delays. So we would not delay for that reason.

17 VICE PRESIDENT HODGKINS: Did that answer your
18 question?

19 MR. HARRIS: Yes, it answers the approach that
20 they are talking about at the moment. It doesn't answer
21 my question as to how you integrate a project. You are
22 building half a bridge. All right? And you are going to
23 fund half a bridge with state money. The other half of
24 the bridge has to come in from the federal side.

25 Now, I'm not sure how you are going to face it

1 unless the state is prepared to say -- if it remains a
2 backup levee only that's okay from the state's
3 perspective, and it gives the state what its criteria
4 requires. That's all my question.

5 MR. MAYER: All right. Maybe I can clarify. Our
6 goal would be to end up with a setback levee, not a backup
7 levee. So that's all part of the plan.

8 But we realize that you have to take this in
9 steps. And we would be doing this without reliance on any
10 federal cash. I don't believe their chart showed any
11 federal cash up there. And that wouldn't be a criterion.

12 Now, we will be looking at this from a technical
13 perspective and cooperating with the Corps to make sure
14 that this thing is built according to standards. And
15 doing everything we can to capture federal credit through
16 the Section 104 process, so that those federal credits can
17 be used for other work.

18 MR. HARRIS: Fully understood. My issues go more
19 to integrating CEQA with FEMA, making sure there's a full
20 hydraulic and hydrology analysis and whatever mitigation
21 requirements may come up from hydraulics and hydrology
22 are, in fact, looked at from an integrated standpoint. So
23 I'm not looking at it from a standpoint of who's the bill
24 payer in federal dollars versus state dollars. It's
25 whether or not you end up with a project that's

1 integrated. That's, again, my point.

2 MR. MAYER: Hydraulic impacts and hydraulic
3 mitigation are part of the technical challenges that the
4 project faces, and it's part of the review process that we
5 are going through now, and will continue until we are able
6 to make a decision.

7 MR. HARRIS: Thank you.

8 VICE PRESIDENT HODGKINS: Rod was here basically
9 to talk to us about Item 3 on the agenda, which is the
10 state's input into this in terms of where the money is.
11 And in effect, what he said is, he doesn't think there's
12 any way the 10 million is available until probably around
13 the 1st of July, assuming the budget is approved on time.

14 So what I heard Three Rivers say is, they are
15 going to take a look at that and come back to us and let
16 us know what the implications of that are, at our next
17 meeting.

18 Now, there are two other items that I would like
19 to speak to or have the appropriate person here speak to.
20 First of all, there's been -- Three Rivers has presented
21 the results of their hydraulic analysis, which I assume
22 are the bases of CEQA analysis for hydraulic impacts on
23 this project. That was certified by your board, when you
24 went forward and selected the setback alternative.

25 It's my understanding, just to go through this

1 quickly, and I spoke to Mike Mirmazaheri, who has a name
2 that's really difficult to say, about where he's leading
3 the technical review of the TRLIA project, from the
4 hydraulic analysis.

5 I'm going to paraphrase about what I asked you at
6 the break. Please correct me if I say anything wrong.
7 What he said is that the technical information has been
8 submitted, there has been a review by Mike and other
9 members of the state staff, questions he thinks have been
10 sent back to TRLIA and we're waiting for the response on
11 those.

12 Now, can I look across the table and ask you guys,
13 have you seen the questions?

14 TRLIA PROGRAM MANAGER REINHARDT: Yeah, in fact,
15 we had a meeting a week and a half ago with State staff to
16 go over their specific comments, and we have a draft
17 response package that will be provided to Mike and George
18 here, later this week.

19 VICE PRESIDENT HODGKINS: Okay. So rather than
20 spend a lot of time today asking the State what their
21 conclusions are, our staff what their conclusions are,
22 with respect to the hydraulic implications of the setback
23 levee versus fixing the levee in place, I'm going to defer
24 that until this analysis has made the next step back, and
25 we have had a chance for the State to review the responses

1 to the questions they raised. We will talk about that at
2 our next meeting. Okay?

3 Any other issues or questions with respect to the
4 hydraulic implications?

5 Ms. Hofman?

6 MS. HOFMAN: Yes, sir. My name is Frances Hofman.

7 They put up on the screen the 1986 flood and the
8 1997 flood. And they put how this setback levee would
9 save us for the 100-year flood and the 200-year flood.

10 I just want to know, what year flood was the 1986
11 flood?

12 VICE PRESIDENT HODGKINS: Anybody prepared to
13 answer that?

14 TRLIA PROGRAM MANAGER REINHARDT: It's less than a
15 hundred years.

16 VICE PRESIDENT HODGKINS: Okay.

17 And the reason there's a grid there is the
18 hydrology changes somewhat, every time we have a flood.
19 And so it's changed a couple of times. But it was less
20 than a 100-year flood.

21 MS. HOFMAN: What was the '97 flood?

22 UNIDENTIFIED MALE 1: Very close to a hundred.

23 UNIDENTIFIED MALE 2: '86, I think.

24 VICE PRESIDENT HODGKINS: But still less than a
25 hundred.

1 MS. HOFMAN: And my other question is, I
2 understand one of the advantages of the '86 flood in the
3 lower country, were formed to protect the Plumas
4 Lake/Pacific plan area that the Yuba River had already
5 went down, sizably, before the flood took place.

6 What I'm saying is, with this setback levee that
7 you are putting in, according to TRLIA, that's going to
8 allow the Yuba River to flow a tremendous amount more
9 water.

10 And what I'm saying is, in all this study that
11 they are doing, is that additional flow, when it holds it
12 and has to dump it, like it did in early '86, is that
13 taken into consideration when you are lowering down these
14 numbers?

15 VICE PRESIDENT HODGKINS: Could you ask the
16 question again? I didn't totally follow.

17 MS. HOFMAN: Basically that they said they are
18 going to lower it. And if we put the setback levee in,
19 everything's going to be perfect. But they didn't say how
20 much more water they are going to be dumping in into the
21 system from the Yuba, because the Yuba releases from the
22 dam are controlled by the Feather.

23 But what I'm saying is, when you put in the
24 additional water that is available, part time, from the
25 Yuba, what does that do when we get downstream below? How

1 much hundred thousand cubic feet per second more are we
2 going to be putting in the Yuba, to put that into your
3 calculations below? Because whatever they studied
4 below -- and I asked TRLIA what the number was, and I got
5 zero answer -- they don't know -- as of last Wednesday, I
6 believe it was, or something.

7 VICE PRESIDENT HODGKINS: Is there --

8 MS. HOFMAN: So I just -- when you do this study,
9 I just want to make sure that the additional flow, so when
10 the board wants to dump her, gets down and it dumps it,
11 can the people downstream take it including the backup
12 into the interceptor?

13 VICE PRESIDENT HODGKINS: Believe me. As somebody
14 who lives downstream, I have exactly that same concern.

15 MS. HOFMAN: Thank you.

16 VICE PRESIDENT HODGKINS: And I can promise you
17 that that's part of the analysis that was done here.
18 Trying to respond to the question, I think we need to wait
19 until the -- okay?

20 MS. HOFMAN: That's fine. I just want the
21 question on the table.

22 VICE PRESIDENT HODGKINS: Okay. Now, while we're
23 on hydraulics, I have cards from several folks who, I
24 suspect, are here representing somebody besides South Yuba
25 County, who might want to make comments.

1 Mr. Silva, is that appropriate for you?

2 MR. SILVA: If you would like to. Only, Butch,
3 I'd just like to thank you very much for having us here
4 and that -- Sutter County, because their name was
5 mentioned three times, and the principal is here and wants
6 the Reclamation Board to know that we are diligently
7 working on the project also. And have been working for
8 some time with Water Resources. And Mr. Mayer shakes his
9 head, yes, over there.

10 I just want you to know that we, in Sutter County,
11 are basically doing our due diligence, and we are not
12 developer-driven. Unfortunately, that is what's happened
13 in some of the cases in Yuba County. And I don't point to
14 that to say that it's just an issue at the time, where we
15 have to work through it. But Sutter County is diligently
16 working on through Levee District 1, with the State of
17 California and the Corps, also to do our due diligence on
18 what we are going to perform in Sutter County in the
19 future.

20 And we would just like to just let you know, we
21 are going to be in line, too, for some of that funding.

22 VICE PRESIDENT HODGKINS: Okay. Now, Sutter
23 County has submitted a letter that basically supports the
24 setback.

25 Is that consistent with your understanding?

1 MR. SILVA: Yes, it is. The only inconsistency
2 this morning is some of the hydrology numbers and the
3 lower water surface elevation. May have changed. And I'm
4 just wondering, to ask, is there -- the two-dimensional
5 modeling that's been done, is that modeling consistent
6 with our setback levee on our side? Has some of that
7 analysis been infused in the process?

8 TRLIA PROGRAM MANAGER REINHARDT: We haven't done
9 two-dimensional modeling of the Feather River setback.
10 It's all been one-dimensional.

11 MR. SILVA: Thank you.

12 VICE PRESIDENT HODGKINS: Thank you, Mr. Silva.

13 Mr. Twitchell, did you --

14 MR. TWITCHELL: Just want to echo some of the same
15 comments that were just shared with you.

16 Jeff Twitchell with Lude Rogers [phonetic]
17 representing Levee District 1, Sutter County. And I think
18 Levee District 1 here is very supportive of this setback.

19 They would, you know, love to see it go in,
20 whether it drops the water surface elevation by 2 feet.
21 But so much the better if it drops it by 3 feet. I think
22 it's a huge regional benefit. I think we have been
23 discussing some of this with Rod Mayer's group as well.

24 They know that Sutter County is very active in its
25 program. We want to make sure the Rec Board members here

1 today are also aware that a lot of their improvements
2 should get on your radar screen as well.

3 I think this is also a good precursor for these
4 folks in Sutter County to see -- you know, these setbacks
5 are a wonderful idea, but they are not easy.

6 VICE PRESIDENT HODGKINS: They are not easy.

7 MR. TWITCHELL: They are not easy.

8 In addition to their setback, as Dan mentioned,
9 Sutter County is about to undertake repairing about 35
10 miles of its levees, essentially from Thermalito all the
11 way down to the Sutter bypass. And their estimate in
12 cost, this time, is around 350 to 400 million. So I
13 just -- you should know that there's other efforts
14 underway.

15 I guess my question remaining after a lot of this
16 discussion today -- and Butch, we talked a little bit
17 about it at the break here -- is, we understand, there's
18 significant concern of protecting the people in Plumas
19 Lake. And there is concern about, you know, getting the
20 development, fusion to keep these repairs going. But I'm
21 just curious, why is there a fast deadline here of 2008?

22 I mean, we've got problems with LE money coming
23 out. And I'm just curious why we are rushing here? We
24 want to see this thing done right. And that's just an
25 open question we have of why we need to get this done

1 before the end of '08. And I don't know if it's driven
2 from Rec Board on the previous permits or if it's funding
3 here, by TRLIA.

4 VICE PRESIDENT HODGKINS: I won't speak for TRLIA.

5 I will offer you, you know, my own thoughts on
6 this. And remember, the Board isn't making a decision
7 today. But from my standpoint, the key issue is, while I
8 think -- you know, in my previous life, before I was a Rec
9 Board member, I think TRLIA and the developers have a
10 great program. And I appreciate and support their efforts
11 to try and move their project forward, using, in effect,
12 developer funding to provide public safety improvements
13 that are benefitting people who can't afford to pay for
14 those benefits. I think that's great.

15 I also know that along with that, the development
16 community expects to get some benefits out of it too.
17 It's the nature of the beast.

18 And I call that an experiment. But now I find
19 myself now sitting on the Board. We have allowed them to
20 continue pulling building permits. And while I'm prepared
21 to continue to allow that to happen, to the extent that I
22 have any say over it at all, as long as people are moving
23 forward and trying to get the project done as rapidly as
24 is possible. In other words, not sitting on their hands
25 now because there's a pot of state money and not

1 accomplishing anything while we wait for the state money
2 to be clarified.

3 I think the issue for the Board is really going to
4 be, after you get through all of this, where does the
5 Board come down on the basic question of allowing building
6 permits to continue to be pulled, if this project is going
7 to leave Plumas Lakes without the benefits of the
8 improvements on the Feather River levee for another
9 winter? And it's really, for me at least, that simple.
10 Okay?

11 So the issue really isn't, for me, whether the
12 project is going to go forward. I believe it's going to
13 go forward. I don't think there's any question about
14 that. The issue for me, more, is, you know, as a member
15 of the Board, where my job is really focused on public
16 safety, I want to help good projects go forward. But at
17 the same time, I don't want people to be exposed to risk
18 that they don't understand and that could be avoided by
19 moving more quickly.

20 I mean, I think -- and it hasn't been said here,
21 but if you look at what happened to the Yuba levee in '86,
22 where it failed, after the peak, while the water was
23 falling a couple of feet below the design of the levee,
24 that's exactly the kind of unpredictable conditions we
25 have on that Feather River levee, where it sits right now.

1 And so one of the reasons I like the setback is,
2 it gets away from relying on foundation that's been
3 subject to underseepage since the levee was constructed.
4 I think that one might have been constructed in 1912 --
5 but don't quote me on that -- and gets us to build a new
6 levee on a new foundation, which is far superior, to
7 trying to fix a levee in place, particularly -- this
8 levee, understand, has had three Corps of Engineer
9 projects done on it over the last 20 years. And each
10 time, the next time the water comes up, it turns out the
11 Corps work didn't fix it. And that's not criticizing the
12 Corps. That's simply helping you, or trying to help you,
13 understand that when water starts running through the
14 foundations, under these levees, it makes changes that we
15 don't understand.

16 And so we would -- I -- my own view, and I'm
17 lecturing and I apologize, is, you are way better off
18 where you can to get up and start over with a new levee
19 where you have any doubts about the levee you are dealing
20 with now.

21 And so that's what this is really all about in
22 terms of the benefits of the setback, in addition to
23 making the system capable of accommodating more water.

24 Now, understand that when you make the levee
25 wider, that doesn't make more water flow down the system

1 in a 200-year storm. It might a little bit. But in a
2 200-year storm, there's X amount of water you are going to
3 have to deal with.

4 And what a setback levee does is lets you deal
5 with that water 2 feet lower than it would have been, or
6 3 feet lower than it would have been, if you didn't set it
7 back, because it gives you more capacity. We built this
8 system with the idea, candidly, of preserving as much
9 farmland as we could, because the farmers paid the
10 least -- the nonfederal share of the costs of what we have
11 out there now. And with the idea that if we confine the
12 river to a channel, the river would eventually scour out
13 the channel, and we would get more capacity through mother
14 nature. Well, it scours all right. But what it scours
15 out is foundation under the levee that's keeping it from
16 running back. Setback levees are the way to go to get
17 good flood protection, at this point, in this valley.

18 And I'm sorry for the lecture but I feel very
19 strongly about that. And this is after dealing with
20 levees in Sacramento, where we have the same problem.
21 Every time we look a little deeper, oops, there's another
22 problem. Start over, if you can. It's much better. And
23 I will stop with that.

24 MR. SILVA: Butch, if I can just make one quick
25 comment. You remind me of about six years ago, when we

1 sat on opposite sides of the table. And you were as rabid
2 on this side as you are now, on that side.

3 VICE PRESIDENT HODGKINS: Well, some of me hasn't
4 changed. But I do have a different -- you know, I -- the
5 work here -- the partnership -- and nobody's kidding
6 themselves; we all know somebody's getting something out
7 of this. And the whole question is: Can you bring the
8 two sides together so that the public benefits in the long
9 run? And that's really what the Board is on.

10 I see you. Are you shutting me off? You should.

11 DR. SMITH: I'm just saying time is running out.
12 We've been put off before; we can't be put off again.

13 VICE PRESIDENT HODGKINS: Okay.

14 One last question I would like to ask for the
15 representative from the Corps. The issue of certification
16 came up. What can you tell us about where certification
17 of the work that's being done is, as far as the Corps of
18 Engineers is concerned.

19 And please state for the record.

20 MR. ELLIS: Mark Ellis, Corps of Engineers.

21 Can we put the map back up there?

22 Back in -- back in late December, mid-December I
23 would say, Three Rivers submitted a request to the Corps
24 of Engineers to certify levees on the Bear setback, up on
25 the Western Interceptor and up here on the Yuba River, and

1 had a -- I think most of you know, the deadline was
2 January 30th, because they were trying to meet a hard FEMA
3 deadline.

4 We had a -- we worked hard with Three Rivers and
5 the State. We had a lot of dialogue, questions, answers,
6 lot of data going back and forth. And we did -- we did
7 write a letter on January 31st, and basically that letter
8 was not a certification letter. It was a recommendation.

9 What we have here -- and we are continuing to work
10 this process -- this is not a dead issue by any means with
11 the Corps. We are continuing every day, every week, to
12 work with Three Rivers to make this certification here.

13 We have made some recommendations up here, on the
14 Yuba River, that there's some additional 2D analysis, some
15 scour analysis that needs to take place before we can make
16 a determination on certification.

17 And then, we have since been looking at additional
18 data from the AE community submitted through the Three
19 Rivers, here on the Bear and the Western Interceptor. We
20 have looked at the hydraulic data and the geotech data.
21 The Corps is fairly satisfied with what we've looked at,
22 at that point.

23 We're currently looking at the constructability of
24 the levees. And we're looking at whether it was actually
25 constructed in accordance with the design of that.

1 There's some AE information that are independent
2 on the Bear, as there is on the Interceptor. And we're
3 currently looking at the data that was submitted.

4 The Corps hopes to, somewhere around the next week
5 or two, first, second week of March, be able to finish
6 that analysis and write the next letter, which would
7 hopefully, at that point, show that this section here is
8 certified and the setback on the Beer is also certified.

9 And that's kind of where we are at.

10 VICE PRESIDENT HODGKINS: What about on the Yuba?

11 MR. ELLIS: Up here, we made some recommendation
12 on some additional work that needs to -- analysis.

13 VICE PRESIDENT HODGKINS: And that is -- that was
14 2D modeling?

15 MR. ELLIS: 2D modeling and some scour analysis.

16 VICE PRESIDENT HODGKINS: I mean, on the river
17 side? Are you worried about erosion in the future?

18 TRLIA PROGRAM MANAGER REINHARDT: That is
19 downstream of Highway 70, that we're talking about.

20 So our plan -- correct me if I'm wrong, Mark -- is
21 we're still requesting, the Corps is still supporting,
22 certification of the Yuba River from Highway 70 to Simpson
23 Lane.

24 MR. ELLIS: That's correct. We just -- we want
25 the additional data.

1 VICE PRESIDENT HODGKINS: Okay. So there's
2 another piece that we are doing more analysis on.

3 TRLIA PROGRAM MANAGER REINHARDT: Right at the
4 confluence of the Feather and Yuba, we had previously
5 identified an erosion site. The Corps wanted us to do
6 some more detailed analysis. That's called the State cut,
7 where the State went in and cut a channel, a high flow
8 channel. They want to see what rate that is --

9 MR. ARCHER: Mr. Vice President. Is he from the
10 Corps of Engineers, or does he work for TRLIA, the
11 gentleman that just finished speaking? I would like to
12 hear from the Corps of Engineers, not from their engineer.

13 VICE PRESIDENT HODGKINS: You know, I appreciate
14 that. But I do think my experience on this has been,
15 Mr. Archer, is that sometimes it takes two people or three
16 people to get it explained well enough so that there can
17 be an understanding of what's happening.

18 And I believe that's what's happening here. So
19 I --

20 MR. ARCHER: Go ahead.

21 DR. SMITH: I don't believe it.

22 MR. ARCHER: I don't believe it.

23 MR. ELLIS: Butch, our intention at the Corps is
24 to address every one of the aspects of the request letter
25 for certification that was submitted by TRLIA.

1 And we're committed to continue to work through
2 each and every one of those items until certification does
3 happen.

4 Thank you.

5 VICE PRESIDENT HODGKINS: Okay. Now, let me say
6 it differently. And you correct me if I'm wrong. You are
7 making progress and certifying the Bear setback and the
8 work that was done along the Interceptor Canal?

9 MR. ELLIS: Right.

10 VICE PRESIDENT HODGKINS: As far as the work
11 that's been done on the Yuba levee, you are making
12 progress towards certifying that. There is a possibility
13 that another piece of the Yuba is going to require some
14 work before it can be certified.

15 MR. ELLIS: It's a possibility that we -- after
16 that -- after that additional area is studied, we may come
17 back and recommend some form of remediation to take place
18 before certification.

19 VICE PRESIDENT HODGKINS: Okay. But that's in a
20 piece of the levee, not that they have worked on so far,
21 but a new piece.

22 MR. ELLIS: It's in the downstream piece near the
23 confluence.

24 PRESIDENT CARTER: Could you point to it?

25 TRLIA PROGRAM MANAGER REINHARDT: That's Highway

1 70. So all of our work is upstream of Highway 70. But
2 the Corps and our consultants have concluded, there's a
3 breach of the Feather River downstream of Highway 70, that
4 could be certified without improvement.

5 And the Corps has come back and said, "Actually,
6 we're concerned about this erosion site in that region.
7 And we want to do some analysis before we would be able to
8 certify that breach."

9 But everything upstream of Highway 70, all
10 indications are that that would be in the certification.

11 MR. ELLIS: That's correct. And to clarify or to,
12 I guess, amplify something that Butch had said earlier,
13 we're constantly looking at new hydrology, new hydraulic
14 data, and we have -- we're looking on both sides of the
15 river, over in Sutter County, as well as for Mr. Silva's
16 project, we're looking downstream. I also have the south
17 part of Sacramento County I deal with. I'm also a
18 downstream resident. I'm concerned as well.

19 But we have been fine-tuning our hydraulic and
20 hydrology data over the last, probably, two or three
21 years. And this is some things that we have come to have
22 a better understanding of, in the last several months, of
23 what's happening at this confluence. And that's why this
24 recommendation is taking place at this time.

25 SECRETARY DOHERTY: May I ask him a question?

1 VICE PRESIDENT HODGKINS: Sure.

2 MR. ELLIS: Yes.

3 SECRETARY DOHERTY: On the Western Interceptor
4 Canal, you put riprap on the inside of the west levee; is
5 that correct?

6 MR. ELLIS: Inside of the west levee? That would
7 be correct.

8 SECRETARY DOHERTY: Did -- in the process, did you
9 raise the west side of that levee at all? And if so --
10 and you had flood easements up to 500 feet to the east.
11 If it's going to exceed that 500 feet, do you have to buy
12 additional flood easements?

13 MR. ELLIS: I do not know the answer to that. I
14 was not here during the construction of that levee.

15 SECRETARY DOHERTY: Does anybody know?

16 PRESIDENT CARTER: I believe it's the -- it's the
17 State that buys the flood easements or the flowage
18 easements on that. And the question as to whether or not
19 we have to, I don't know.

20 MR. ELLIS: It's true. Typically all of the
21 easements are the nonfederal sponsor.

22 PRESIDENT CARTER: Right.

23 I think that what we've heard in the past, though,
24 is that the Bear River setback will lower the water
25 surface elevations that flow into and up the Western

1 Interceptor Canal, such that the water surface elevations
2 will be the same or lower than they have been
3 historically, even given the hundred-year or 200-year
4 events. That's what we have heard, under past testimony.

5 SECRETARY DOHERTY: Oh, okay.

6 PRESIDENT CARTER: So I guess the corollary is we
7 don't think we need additional flowage easements or flood
8 easement.

9 SECRETARY DOHERTY: What happens if you find you
10 do?

11 PRESIDENT CARTER: Good question.

12 VICE PRESIDENT HODGKINS: Well, it's an
13 interesting question, and I'm not sure we have really
14 thought about that.

15 But in effect, what the Bear River setback did is
16 it lowered the water surface in the Western Interceptor up
17 to 150-year storm, 140. When does it start to get higher
18 because the Feather is controlled?

19 TRLIA PROGRAM MANAGER REINHARDT: We lowered water
20 surface elevation all the way to the 200-year event, and
21 we do not lower the water surface for a flood if it's
22 greater than a 200-year event.

23 VICE PRESIDENT HODGKINS: Okay. So up to the 200,
24 the water surface is lower than it used to be.

25 Now, at the same time, the western levee, the

1 Interceptor Canal has been raised. So an argument could
2 be made that it's possible for the water to get 2 feet
3 higher than it used to, than it could have in the past --
4 and I've got you, Ms. Hofman -- but because that can
5 happen, if it only happens in a 200-year storm, I'm not
6 sure we have to buy flood insurance. Okay?

7 So it becomes -- so we have reduced the water
8 surface. The project has reduced the water surface in
9 those easements for an event up to -- I don't know the
10 right number. We could look at this in detail. It's
11 really not a forward-going issue on TRLIA. But maybe one
12 we should spend some time to make sure we all
13 understand -- understanding in terms of what's happened in
14 the past. Okay.

15 SECRETARY DOHERTY: Okay.

16 VICE PRESIDENT HODGKINS: I haven't answered the
17 question, because it's not easy to answer without thinking
18 the answer through carefully.

19 Ms. Hofman?

20 MS. HOFMAN: I asked TRLIA last week to give me an
21 opinion, signed by the engineer, that the design capacity
22 and the original flow into the Interceptor would not be
23 exceeded by this project, that they have got.

24 Now, there's a design capacity for the
25 Interceptor. Also, in 1937, there was an amount of water

1 that flowed in. And as I understand from asking TRLIA
2 questions, nobody has any idea how much water is coming
3 into the Interceptor from the north.

4 And all I'm saying is, I don't know who's supposed
5 to certify what or what's supposed to be certified where.
6 I'm just asking for an engineer's number and his name that
7 says that that's going to be lower and it's not going to
8 exceed those capacities, because those capacities is what
9 the easements was granted on, in 1937. And I haven't been
10 able to get it. So that's fine.

11 I just want to know -- in other words, the Army
12 Corps of Engineers, everybody certified it. And then I
13 will go from there. But what I'm saying is, I can't get
14 it out of TRLIA.

15 VICE PRESIDENT HODGKINS: Okay. I think we may
16 have it; we may not have it. But we will work with you,
17 outside of here. All right?

18 Now, I have one more card. Thomas Rice.

19 MR. RICE: I will be succinct. I'm Thomas Rice,
20 owner of Rice River Ranch. I have been with my family,
21 trying to engage in the public process here, since the
22 very beginning. And my family has been in this area four
23 generations. We have been through three flood events, we
24 understand this land. We understand its river. We
25 understand its risks.

1 And I'm not here to argue and discuss the theory
2 of the value of setback levees. But as I presented in a
3 letter that I sent to DWR. They've already asked me to
4 resubmit it this time. You have copies of it.

5 I'm saying, in this situation when we look at all
6 the risks involved, all the costs involved, the delays,
7 the impacts, the finances. I think we are looking at such
8 an extreme solution here with the risks and the costs,
9 that we're just setting ourselves up for other kinds of
10 events, other kinds of unknowns, that maybe we end up in a
11 couple decades with a 200-year protection, but we find
12 another unknown, we find another risk, we find another
13 delay, we find another method of seepage. And maybe what
14 we are protecting in a couple decades is against that.

15 I want to make sure that we are not setting
16 ourselves up, so far, so extreme a solution, that we don't
17 have margin, that we don't have some way to come back and
18 say we've made the right investment, a reasonable cost
19 investment, left ourselves money, left ourselves time,
20 left ourselves less impact, that it seems that we're
21 looking at almost a gold-plated solution here, whether our
22 money is needed in other places, other communities, other
23 areas that have not had the chance to put together the
24 coalition and the funding that Yuba County has, at this
25 point.

1 And that we really should be seeing all these
2 concerns, all these risks, all these things that have to
3 line up perfectly, as -- we've got a design that's out to
4 the limit. What can we do to back it in, to reduce our
5 risks, get some of the benefits, but not be at such a high
6 risk that we are just setting ourselves up for more
7 problems later?

8 I think we can do a better alternative.

9 VICE PRESIDENT HODGKINS: Thank you very much.

10 And if everybody understood the risks as well as
11 this gentleman did, I think people, like people on the Rec
12 Board, would, perhaps, be more willing to not drive for
13 the best possible improvement we think we can get, out of
14 public safety. But unfortunately there are many, many
15 people who do not. And so we strive to do the best we can
16 and that's where setbacks come in.

17 Now, any other comments on Items 2 and 3 on the
18 agenda?

19 Okay.

20 TRLIA SPECIAL COUNSEL SHAPIRO: Butch, as we wrap
21 up 2 and 3, I wonder if I could just very briefly --

22 VICE PRESIDENT HODGKINS: Thank you.

23 TRLIA SPECIAL COUNSEL SHAPIRO: I really -- I
24 think on behalf of Three Rivers, we want to thank you for
25 engaging in the process, and we appreciate the chance for

1 public discourse. It's difficult. I mean, everyone knows
2 it's difficult to sit here and be in the hot seat,
3 responding to questions we don't know when they are
4 coming.

5 But I think overall we're very dedicated to this
6 project. And when you look at the dollar increases and
7 the work we've gotten done and the work that we hope the
8 Corps will be certifying in the next several weeks, we've
9 had a proven track record. And I guess what I would like
10 to do and leave, as a closing thought, and then I will ask
11 if Paul or Dan or Ric for anything they want to add, is,
12 we don't see any other alternative but to keep pushing
13 ahead. We don't think that failure is an option. We
14 don't think that stopping is better for the residents of
15 the South Yuba County.

16 We have a tough decision, whether to strengthen in
17 place or do setback. But we have chosen the setback. We
18 think it's undeniably the better flood control solution,
19 and it does present some new challenges. But we've met
20 every one of those challenges in the past.

21 We are not content to let this go through the
22 Federal Yuba Basin Project and take five, ten, fifteen
23 years to be completed. And we're not content to sit back
24 and work out every detail before we proceed, because if we
25 did that, like other flood control projects in this state,

1 we wouldn't make the progress we need to make.

2 So I just want to reiterate our commitment to
3 getting this done, to answer questions, coming back on 9th
4 and revise the cash flow and time schedule, and to move
5 forward.

6 I guess I would ask if anyone has anything else
7 they want to say.

8 TRLIA EXECUTIVE DIRECTOR BRUNNER: Actually I do.
9 Today I think was a very good session. I appreciate the
10 interchange of ideas.

11 The -- I didn't really hear anything during the
12 discussion that would detract from my commitment to
13 getting the project done.

14 I was very encouraged, although it was -- we have
15 to work with it -- Rod commented about the June time
16 period versus May. But for me, the point that perhaps I
17 don't want people to miss, is that they were still doing
18 it. They are committed to the project. So we miss a
19 month. In the setback, we went through the benefits of
20 great detail, and you went through them in great detail.
21 And I won't repeat all those benefits -- is the setback is
22 by far --

23 MR. ARCHER: Mr. Vice President, it's gone long
24 enough.

25 DR. SMITH: It's gone on long enough. They've had

1 their fair share and more. Please. We have a 1 o'clock
2 deadline.

3 MR. ARCHER: And they are going to get to talk
4 under No. 1, explain why they didn't finish the Linda
5 levee. They can talk then.

6 We would like to talk on what we came here for,
7 No. 1.

8 VICE PRESIDENT HODGKINS: Okay. And here's my
9 commitment to you. I will not let them start out No. 1
10 with a presentation on what's happened. You guys can get
11 up and make your comments. And we will see what we need
12 to do to deal with those. Okay. But can they finish what
13 they are saying, because part of at the very end of what
14 I've got to do, and the committee has to, is figure out
15 what do we expect people to come back with, at our next
16 meeting.

17 And I want to get your item done so we know if
18 it's coming back as well. All right?

19 Go ahead.

20 TRLIA EXECUTIVE DIRECTOR BRUNNER: My final
21 comment is that we are committed to the 2008 time period
22 to make it happen. We have a commitment to the Rec Board
23 to do that within the agreements that we have. It's a
24 very aggressive schedule, moving it forward.

25 If we cannot make it, then we will be in

1 communication with you to work with us through that
2 process. But the setback is by far the best solution.
3 It's best regionally. It's best for Yuba County. And
4 it's best for our state.

5 VICE PRESIDENT HODGKINS: Thank you. Any other
6 comments on 2 and 3?

7 Okay.

8 Now, per my commitment, let's go to the first item
9 on the agenda, which was status of the applicant's
10 compliance with existing permit conditions. And per my
11 commitment to you, we will not let them talk. We will go
12 ahead. And the indication was, I asked Mr. Smith what the
13 order should be. He thought he should be first. Is that
14 okay? I have three cards.

15 Mr. Smith.

16 DR. SMITH: My mother told me never to speak to
17 people's back. May I come up here, please. I feel really
18 ill at ease when you're standing back there, sitting back
19 there. You can't see the people. Could you turn that
20 off, if you could, please.

21 For the record, I'm Dale Smith. I'm appearing for
22 the Concerned Citizens of Responsible Growth,
23 Incorporated, in Marysville. And prior to this meeting
24 today, we presented a letter to your Board contesting this
25 hearing because of faults in the agenda and problems we

1 observed in recent board meetings, with the Rec Board
2 meetings that are questionable by the Open Meeting
3 standards of the Brown and Bagley-Keen Acts. I put a
4 letter in today. I think it's gotten to you. We have
5 kind of sorted that out to some degree. The letter speaks
6 for itself.

7 But there were four points on that agenda. 1 to 3
8 have been handled. But No. 4 really hasn't been handled,
9 and I want to put it on the record once again.

10 The Bagley-Keene Act says that it provides for
11 comments to be made, quote, either before or during the
12 consideration of each agenda item, i.e., we should have
13 been permitted on the agenda to take that Item 1 and then
14 give our comments. We have ceded to that.

15 But I want to put on record that I believe this is
16 a Bagley-Keene Act violation. Would you -- okay. Fine.
17 It's on the record.

18 Now, this all might seem a little petty to some of
19 you. The laws were put there for a reason. We believe
20 it's important for public bodies to be as law abiding as
21 anyone in our society. And for your information, I'm not
22 new to this battle. I have been involved for years in
23 exactly the same issues, at all kinds of levels -- state,
24 federal, and in our county.

25 I have been a member of the California First

1 Amendment Coalition for years, Saturday along with the
2 assistant police chief of Banning, California. We became
3 the newest Board members of Californians Aware, the Center
4 for Public Forum Rights.

5 And if I think of what public forum means, I think
6 of the word transparency. And I don't see a whole lot of
7 transparency in what's happened today. It is increasingly
8 difficult to sort out what is going on here. And I think
9 a lot of people would agree with me. Now, I bring up --
10 brought along a button from our group, from Cal Aware, and
11 it says "Demand open government." And here's the thing
12 that I wanted to get across: You can't speak truth to
13 power without knowing the facts. And our job is to try to
14 know the facts and get to them.

15 Now, I believe that every person who's involved in
16 any act and observing of a government official has a
17 non-delegable duty to make a determination of the
18 constitutionality of that act. I also believe when
19 officials fail to enforce the law, citizens have to step
20 in and take action to see that the laws are enforced and
21 replace those officials and others who do not do their
22 constitutional duty. And we have seen a lot of that
23 happening in Cal Aware, over the last several years.

24 Now, I'm not alone in this position. The
25 Constitution Society states, quote, constitutionalism,

1 sometimes equated with the rule of law, holds that
2 government can and should be legally limited in its
3 powers, and its authority depends on enforcing those
4 limitations.

5 Now, it's not my intention today to get into a
6 confrontation with this Rec Board. I believe, and the
7 CCRG believes, that this is -- we are the best friends and
8 supporters that that Board has. We believe in you. We've
9 studied carefully the law. And we know the awesome power
10 that the Rec Board has. There's something dreadfully
11 wrong when you have a seven member board, and for months
12 now, you only have five members. Where are those other
13 two missing members?

14 We want to do everything we can to push and see
15 that your power is restored fully to your Board, so you
16 really can do the things that the law says you have to do.

17 Now, along with that kind of power comes
18 responsibility. California Supreme Court has said,
19 members of the public hold a privileged position in the
20 CEQA process. I realize, at this moment, we're not in
21 CEQA process. But public involvement is an essential
22 feature in this process, in all government processes.
23 Vigilance of private citizens has been extremely important
24 to the whole process. And there's a quote comes from this
25 particular thing from the -- from the Supreme Court

1 saying, "Without the active involvement of citizen
2 watchdogs, many instances of noncompliance would go
3 unchallenged." We're here to challenge that.

4 Now, to the issue at hand. The levee at mile
5 marker 0.79 directly behind that huge Wal-Mart store in
6 Linda, where there is probably at any given time 50 to
7 60 -- or maybe 30,000 people, I don't know how many; on a
8 weekend, a huge number of people; the parking lot is
9 completely full. Guess what levee is right smack dab
10 behind that? The levee we've been discussing today, at
11 0.79.

12 Now, when we get to the issue at hand, I read in
13 Colonel Light's 12/4/06 statement the sand berm. Quote,
14 the seepage berm performed as desired in the recent high
15 water event. The fact is, there has been no high water
16 event to test this berm, period. So how can we have a
17 berm that has had the high water test, when the high water
18 hasn't been here?

19 Reported by TRLIA -- by the way, it's not TRLIA.
20 It's T-R-L-I-A. Forgive me. I'm an old ABC man, with ABC
21 news. I got to pronounce things correctly whenever I see
22 them, if I can.

23 But you know, what it amounts to is, right now,
24 TRLIA is working on those levees, on that levee,
25 illegally. As late as last week, they were in there,

1 working on that berm. Unless I've lost my ability to read
2 and reason, it's the duty of the Rec Board to enforce its
3 own rules and laws. And this is only late February, not
4 April 2007.

5 And why is this germane? It's germane because the
6 law says that they can't be in there, working. Now, I
7 didn't intend today to bring this up. But I'm going to
8 bring it up, because I heard today that TRLIA has built --
9 has met all its benchmarks. I don't think it's true.

10 I sent a letter to you on the 20th of January in
11 which I cited a conversation I had with Mr. Shapiro, after
12 the last meeting that I attended at the Rec Board.

13 And he said, "By the way, Mr. Smith, I want you to
14 know that the Reclamation Board permits granted TRLIA do
15 not require the completion of the work but only authorized
16 the work."

17 I said, "Excuse me? If the permit authorizes the
18 work, surely it also requires the completion of the work.
19 Otherwise, why even issue a permit?"

20 He insisted, in front of Mr. Brunner and others of
21 TRLIA, indeed, under the Rec Board permitting process,
22 that they were not obligated to complete the work.

23 Did you tell me that, sir?

24 TRLIA SPECIAL COUNSEL SHAPIRO: Did I tell you
25 that? Did I tell you that a permit authorizes work and

1 doesn't require completion by a particular date? I did.

2 DR. SMITH: No. No, you didn't.

3 TRLIA SPECIAL COUNSEL SHAPIRO: Oh, I did. By a
4 particular date, I did. You are misquoting me.

5 DR. SMITH: Well, you don't know the answer to
6 that. But anyway, let's move on.

7 It's important in this whole -- in this whole
8 scenario that we do things right. Now, the past two
9 months, CCRG and Rex Archer have filed more than 200 pages
10 of documents that give a very complete picture of why we
11 believe this levee is not safe, should not be certified by
12 the Army Corps. We have sent dozens of letters to the
13 Army Corps. We were to have a meeting with the Army Corps
14 and with TRLIA, and the meeting never got called, and I
15 don't know why.

16 But you have to understand, Rec Board, that there
17 is a day of accountability coming. There's a big test
18 awaiting you. The last one was the Paterno case. And it
19 so happened to be right on that very levee. \$455 million
20 is what it cost us, the taxpayers, to take care of that.

21 Now, the Corps has told the State of California
22 that the damages -- that they are responsible for damage
23 caused due to failure of levees for which the State is the
24 levee sponsor.

25 I'm not going to burden you with a lot o details.

1 That's not the point here today. But I do want to point
2 out that on the record, again, that the Katrina disaster
3 pointed out human error, claimed a very heavy toll. I
4 know you don't want to hear it, but people died because
5 government agency from the Army Corps of Engineers to
6 local levee boards failed to do their jobs properly.
7 Safety was trumped by a desire for efficiency and saving
8 money.

9 And when I read the headlines like these: From
10 USA KeepMedia, "In Katrina disaster, Human Error Claimed
11 Heavy Toll. Report Points to Flaws in Army Corps Levee
12 Design Construction."

13 May 24, 2006, from the New York Times, "Army
14 Admits Design Flaws in New Orleans Levee System, Corps of
15 Engineers Report Catalogues, Years of Poor Planning, and
16 Construction Failures."

17 How am I then supposed to believe that the U.S.
18 Army Corps of Engineers has done the job here that can
19 make these levees certifiable? How can I do that? I
20 don't know. It's hard for me to understand.

21 Now, one of the things that Colonel Light said, in
22 one of his letters -- you know, the parallels between New
23 Orleans, LA, and Linda, CA are uncanny.

24 Colonel Light said, in his letter on 12/4/06, to
25 Rex Archer -- and there's a parallel to this whole thing

1 of what happened down there, what they are saying about
2 interlocking steel gates. Aren't interlocking steel gates
3 and steel curtains if they have been in place in Katrina,
4 analogous to slurry walls? Now, this vaunted sand berm
5 declared to be the answer to the Linda levee has only one
6 part of a three-third part that makes such a levee safe.
7 Doesn't have a slurry wall. And it doesn't have relief
8 wells.

9 Now, you have all heard the old saying: If you
10 believe all this stuff, I've got a bridge I would like to
11 sell to you. I'd like to sell that then, too, but I don't
12 think it's true. I think in this particular situation,
13 it -- and Rex Archer will be able to give it to you in
14 greater detail.

15 Now, I want to speak to Vice President Hodgkins
16 here. You spoke to me like you were speaking directly to
17 me a few minutes ago, when you said, "We said it was safe,
18 but we were wrong." That's what you said about levees.
19 You also said -- a little bit later on, you talked about
20 water flowing through levees. And because of those big
21 huge boulders that are in that levee that's never been
22 taken care of, the water still flows through there.

23 We recently won a very important case in Placer
24 County on this very issue, because whenever you dump rocks
25 into places like that, you have holes that are going to be

1 there, inevitably. They can never get out of there.

2 That's the situation that exists today.

3 Now, we're not convinced that the levee is
4 correct. However, we saw the words in the local paper
5 from 12 takes. And these are, quote -- I would like to
6 read them to you. "'We have confidence in that seepage
7 berm that was constructed,' said John Hess, chief of the
8 geotechnical and environmental engineering branch of the
9 Sacramento District. 'We have no concerns about it
10 whatsoever.'"

11 Well, I'm not convinced that that levee is safe.
12 I have presented proof to your Board that illustrated very
13 graphically. I have them with me today if anyone wants to
14 look at them. So we're not convinced it's safe. And what
15 we have presented and what we represent as we go through
16 here today, will bring this back, again and again, to this
17 same situation.

18 Now, a few minutes ago we were talking about the
19 EIR and EIS process. And in late January, the United
20 States Army was charged with the responsibility of
21 completing a full EIS and EIR for the Yuba Basin. My
22 experience in working with EIRs -- and I have been at it
23 for 12 years -- is that process takes anywhere from three
24 to six years.

25 I want to know, has any of your investigations now

1 taken into account the provisions of that commission, that
2 has been sent out from the United States government, to
3 carry out the federal EIS and the California EIR? And
4 every time I go on the Web site -- and I looked at new
5 materials about the Army Corps failures of Katrina -- I
6 have been concerned.

7 And there is a blue ribbon California panel that
8 recently issued a huge report -- many, many pages long --
9 which tells the whole sorry story.

10 Now what I want to wind up with is just this: I
11 believe in what these men want to do with the levee
12 program here. Does that sound surprising to you? I do
13 believe in it. But I don't believe you can take a serious
14 problem and a levee that is absolutely suspect, and
15 through manipulating reports and things, you get the Army
16 Corps of Engineers to certify that that levee is safe and
17 it goes onto FEMA. Now, what kind of risk are you taking,
18 because it's ultimately the State of California that's
19 going to be the ones that are responsible for this. What
20 kind of risks are you taking if you let that happen?
21 Serious risk.

22 Now, I think what you ought to do is have these
23 people go back. I don't care how much it costs. Take
24 those boulders out of there. Put in a new levee like it
25 belongs, and get it out of there, and remove that problem

1 once and for all, and then get on with all the rest of the
2 things you want to do. And I believe you will be better
3 off for it. I really do.

4 Thank you very much.

5 VICE PRESIDENT HODGKINS: Thank you.

6 Mr. Smith?

7 DR. SMITH: Yes, sir?

8 VICE PRESIDENT HODGKINS: I'm sorry. I got
9 confused.

10 Thomas Foley.

11 MR. FOLEY: Thomas Foley, director for a
12 nonprofit, Concerned Citizens for Responsible Growth,
13 established 2004.

14 Since 2004, I have been involved in flood
15 protection RD 784 as much as anyone in this room. Based
16 on experience, we do not believe TRLIA has shown they are
17 qualified to provide flood protection for urban areas.

18 The levees are public infrastructure such as roads
19 and water systems. Much time is being wasted with this
20 process, which is basically driven by the developers to
21 save on impact infrastructure fees.

22 Up to \$220 million was assured the public to lift
23 the building restrictions in RD 784. Mr. Shapiro, we want
24 him to make those assurances. His testimony is in the Rec
25 Board transcripts. What value can we put on all the

1 assurances in the future?

2 The public needs the Rec Board to fulfill their
3 role as, first and foremost, a public safety agency. It
4 is malfeasance to allow safety to be second in profit
5 margins.

6 The Rec Board should take this project over and
7 complete the Feather River setback this year. The Paterno
8 break area also needs repairs to be safe. That should be
9 done also this year.

10 The public is being left at risk, for public
11 meetings are held to save developers money.

12 Thank you.

13 VICE PRESIDENT HODGKINS: Mr. Archer?

14 MR. ARCHER: Thank you, Mr. Vice President. I'm
15 Rex Archer from Linda.

16 Three Rivers Levee Improvement Authority has
17 stated two separate times, recently, that the Linda levee
18 is completed and will soon have a certification by the
19 Corps of Engineers or FEMA, as a 200- or 100-year level of
20 safety.

21 Mr. Shapiro stated today, "We have met every rule
22 you have given us." In April of 2006, Yuba County
23 administrator Kent McClain sent a letter to the U.S. Army
24 Corps of Engineers stating, the Linda Levee now fits FEMA
25 criteria and asking for certification of the Linda levee.

1 On June the 2nd, 2006, TRLIA Vice Chairman Dan
2 Logue stated in the Appeal Democrat, as vice chairman of
3 TRLIA, "I'm happy to announce, in December, the Linda
4 levee will have a 200-year level of safety."

5 Again, in January of 2007, Yuba County
6 administrator Robert Bendorf sent a letter to FEMA
7 stating, the Linda levee was completed and asking for
8 certification.

9 In December of 2006 and January of 2007, John Hess
10 of the Corps of Engineers stated on KUBA Radio and in the
11 Appeal Democrat that the Linda levee is safe and the Corps
12 will certify it.

13 TRLIA Executive Director Paul Brunner has stated
14 to the Rec Board that the Linda levee would have a
15 certification in December, mid January, late January, mid
16 February, or late February, or, as Mr. Shapiro said today,
17 in the next several weeks.

18 When is this thing going to end? All through the
19 statements of levee safety and completions, and up through
20 November the 1st of 2006, the start of the rain season and
21 the end of construction of levees until April 15th, 2007,
22 no construction under Permit 18095 GM, issued by the
23 Reclamation Board, August the 24th, 2006, to TRLIA -- and
24 that was to remove Linda and Olivehurst out of the deep
25 flood area -- had been accomplished, from the Union

1 Pacific Railroad, west, to Highway 70, from here to here.

2 They show things done there.

3 The accomplishment of the water side flattening --
4 that was a project that was supposed to be done under
5 18095 GM. The accomplishment of the water side flattening
6 construction would have brought Linda levee to a
7 three-to-one slope for approximately 2,100 foot, according
8 to the permit, including the site of the 1986 levee break,
9 to prevent erosion and rapid draw down.

10 This project was requested by the Corps of
11 Engineers in a letter dated August 7, 2006, to the state
12 Rec Board and issued to TRLIA August the 24th of 2006.

13 By the way, the Linda levee sits on an old river
14 channel. Someone says the Feather. Well, the Linda
15 levee, for sure, sits on an old river channel. It is
16 noteworthy to say, one of the weak levee issues identified
17 in the Corps' letter was a triangle sand berm to be placed
18 at the junction of the Union Pacific Railroad, and the
19 East Linda levee, right here, east of Wal-Mart.

20 After I brought the fact, TRLIA had not
21 constructed it, to the attention of the Yuba County Board
22 of Supervisors, on January 16th, 2007, that same day, Ric
23 Reinhardt, engineer for TRLIA, sent a letter to the Rec
24 Board, asking for a variance permit to construct that sand
25 berm, because I called him at it. They didn't fix it.

1 Mr. Smith talked earlier about citizens who have
2 to bring things to the Board because it's not being told
3 to you truthfully.

4 It was given, and the berm was constructed. It is
5 now constructed. They were given a permit to work between
6 November the 1st and April 15th, which your Board and the
7 State of California will not let anybody work an any levee
8 during that time, because they could get caught in a rain,
9 a ten- or twenty-day rainstorm and the levee would fail.

10 But you gave him a variance to take three days and
11 fix that sand berm, that they had forgotten or had chosen
12 not to do, or preferring to not do so.

13 It is no wonder FEMA and Corps of Engineers will
14 not certify the Linda levee when TRLIA states they have
15 completed works on permits, that they have not completed.
16 As a FEMA authority stated on the front page of the Appeal
17 Democrat, "Why should we certify a shaky levee? It would
18 only give a false assurance." Amen. That pretty well
19 sums that up. TRLIA seeks the certification for work, not
20 done on the Linda levee, and moves on to the setback levee
21 on the Feather River. TRLIA has cut into the side of the
22 Linda levee and left it open to the elements -- a
23 violation of Board rules.

24 They have worked on construction of the sand berm
25 placed in July 21st, 2005. During that time, when nobody

1 can work on the levees, TRLIA constructed the sand berm.
2 They didn't maintenance. They put a whole new cobblestone
3 into it. They done everything -- construction.

4 During the month of December and January, with no
5 variance permit issued by your Board, they constructed a
6 detention basin within 25 feet of the Linda levee
7 structures without a permit, again. Again, in the months
8 after November the 1st, 2006, when no construction can be
9 done.

10 TRLIA, after all of these violations, coverups,
11 false information to citizens, states, and federal
12 governments, with the need to know, cannot be trusted to
13 protect the public safety in the Yuba Basin, and must be
14 removed as a flood control entity and all permits issued
15 prior to January the 1st, 2007, and any contemplated after
16 that date, being recalled and not issued.

17 The permit should be given to RD 784, as lead
18 agency, after we bring in voting one person to one person
19 vote and remove some people that are there now, get in new
20 directors that watch out for the citizens, not for the
21 200-year things to put in more housing.

22 The permits should be given to RD 48784 as lead
23 agency with the Yuba County Water Agency developers and
24 citizens as local funding principals.

25 200-year levee. We have never -- we have no idea

1 what a 200-year levee was. I was president of 784 for
2 seven years. 200-year levee meant nothing to us. Safe
3 levees is what it meant to us.

4 What they have done is left the Linda levee
5 un-repaired. They put a slurry wall in 2004 -- from here
6 to there, one half way down -- because they couldn't go
7 the rest of the way. But nonetheless, that's not our
8 problem. They left those boulders there.

9 So they just went halfway. Then they put a slurry
10 wall way up here, down through here. And they were
11 supposed to flatten the levee, down through here, which
12 would stop rapid draw down. That's when the water is up
13 high, and then all of a sudden it starts dropping, like in
14 1986 and I lived a mile from there when it done it. So
15 when the rapid draw down came down, it takes the levee
16 with it. That was put in by Kleinfelder.

17 Dan Logue, in the Appeal Democrat said the Linda
18 levee is a seepage issue. Guess what? Every flood --
19 every levee that breaks starts with seepage. The
20 boulders, they didn't land in there in perfect things like
21 this. They landed all types of ways. And the water goes
22 through there. I have stood on the levee and seen it
23 pooling out near Wal-Mart to the right. They covered it
24 up with a sand berm. We can't see it no more. But it
25 goes under there anyway. Nothing has been put in there to

1 stop that water. And some of that area is that big.

2 That's not a seepage. That is water flow.

3 Thank you.

4 VICE PRESIDENT HODGKINS: Thank you, Mr. Archer.

5 I heard several questions. And I think what I
6 would like to do is make sure I understand the questions.

7 Did you take note of them too, Ben?

8 PRESIDENT CARTER: I tried.

9 VICE PRESIDENT HODGKINS: Okay. And so we can
10 address those as appropriate at our next meeting. You
11 didn't submit them in writing?

12 MR. ARCHER: It's in the mail.

13 Are you speaking to me, Mr. Vice President?

14 VICE PRESIDENT HODGKINS: All of you.

15 MR. ARCHER: Mine is in the mail.

16 DR. SMITH: And I will turn mine in today.

17 PRESIDENT CARTER: Mr. Smith -- or Dr. Smith, this
18 basically has the content of everything that you said
19 today; right?

20 DR. SMITH: No, that was just the letter on the
21 issues of the Bagley-Keene Act. I have the other
22 documents here. I will turn them in before I leave. I
23 have my complete speech. Of course you got all the little
24 bits -- your transcription has that.

25 Thank you.

1 VICE PRESIDENT HODGKINS: Can we spend 15 minutes
2 trying to reach some understanding as to what we need to
3 come back to on the next meeting? We need you guys to
4 look at the cash flow in light of how we do the project,
5 given that the statement is not going to be available
6 probably until the first of July.

7 Second issue is, we want to sit down, with counsel
8 present, and work through the details with cash flow on
9 the condemnation, just to be certain that it all works.

10 Third thing is, we need to put together a response
11 to the issues raised, by the gentleman, about permit
12 compliance. Seems to me the way that should work is, we
13 need to be sure we understand the issues, work with Steve
14 to figure out which of them are ours and then talk to you
15 folks, if some of them are not our issues to answer, to
16 try and respond to those.

17 Mr. Archer.

18 MR. ARCHER: Can you send the public some of this,
19 rather than have just you guys talk about it? I would
20 like to defend what I said when they start talking.

21 They have 15 minutes. Ask one of them to start.

22 VICE PRESIDENT HODGKINS: Well --

23 PRESIDENT CARTER: Mr. Archer, when we send these
24 documents out, they are public documents and they will be
25 available and we'll be sure that you get some. They

1 should be posted on the Web site as well as available in
2 hard copy from the office. In terms of the responses you
3 talked about us sending things out, everything that we do
4 is public document.

5 MR. ARCHER: Yes, but my question is, these folks
6 here, they are not all members of boards and whatever.
7 They are citizens who live in 784.

8 MS. HOFMAN: No, some of us are not in 784. We're
9 here for the maintenance of these levees.

10 MR. ARCHER: I'm sorry.

11 MS. HOFMAN: That's why we come here.

12 PRESIDENT CARTER: To the extent that there are
13 citizens, the information should be published on the Web
14 site. If it's not, it can be requested by phoning or by
15 writing to the Rec Board and requesting the documents.
16 Okay?

17 MR. ARCHER: Thank you, sir.

18 PRESIDENT CARTER: And the numbers and contact
19 information is on the agenda today and is on every agenda
20 that we publish.

21 VICE PRESIDENT HODGKINS: All right. We're also
22 going to get the state's position on the hydraulic
23 analysis, that you presented here, at the next meeting.

24 And is there anything that I'm over looking?

25 MS. HOFMAN: Yes. You had meetings here last

1 time. And Mr. Webb is a chairman, and I asked to speak.
2 At the time, they were saying this area of benefit for the
3 levee. I own a ranch that has never flooded, as far as I
4 can go back in history, for 140 years.

5 And I got an assessment to maintain the levee that
6 TRLIA worked on in the first phase. I asked for
7 information so I could have it before I come to the
8 meeting. It is impossible to get. We don't know whether
9 we are being assessed what about, approximately a hundred
10 dollars an acre, or we are being assessed \$3 an acre. You
11 can't read the map. You can't tell the difference.

12 Now, we come to these meetings and there was
13 nothing saying that any of us, that's outside of 784, was
14 going to have to pay for any of these levees.

15 If the assessment for Hofman Ranch, which is down
16 to the penny, and you ask them how they compiled it, you
17 get no answer. If it's on the whole ranch, it's about \$4.
18 But if it's on the land that's in 784, you get 17 acres
19 underneath the power line, that TRLIA didn't even think
20 was important enough to tell you they were going to use
21 it, to assess you a hundred dollars an acre.

22 And what I'm saying is, the Reclamation Board,
23 before they approve these projects, they ought to find out
24 who's going to -- public ought to know who's going to have
25 to pay for it, instead of the TRLIA going out there and

1 drawing a line and having a vote of a whole bunch of
2 people that are going to be flooded and the rest of us are
3 drawn into it.

4 This whole project, there's no information
5 available. And we went to the meetings time and time
6 again. The developers are paying for it. The developers
7 are paying for it. And you got people that's inside of
8 784 that are on fixed incomes that's getting -- will get
9 horrendous bills, if we're getting that on land that we
10 never flood. You ask them about the situation where that
11 particular ranch can only be protected by one levee. And
12 if the levee wasn't on the Feather River, it never
13 would -- there's no reason. The Yuba wouldn't even flood.

14 But you got the 784 part of that country's [sic]
15 protected by four levees. And you ask TRLIA, you know,
16 how do you figure the benefit of the assessment? Oh, this
17 is just a survey we put out. And I said, "Well, what's it
18 mean?"

19 "Oh, it was part of the contract."

20 I have tried, for over a week, and I am kind of
21 forceful, to try to get to the records. I made an
22 appointment Friday so I would have the information and may
23 not have to come to this meeting on it. And the office
24 was closed. There was no way you could get the records.

25 And what I'm saying is, the Reclamation Board,

1 when you approve a project you ought to give that
2 approval, ought to find out how it's going to be
3 maintained, because people that are outside, that's in
4 farm ground, are being assessed tremendous amounts of
5 money. Some of us -- some people that I know are being
6 assessed a hundred dollars an acre when their ranch has
7 never flooded, just because they are in the -- excuse the
8 expression, the dam line that TRLIA presented to you
9 people to get enough people to say they are protecting all
10 these people.

11 The '55 -- the '51 flood that more people was
12 killed in than any is when they went through the training
13 levee with a dredge, but yet their countering that as
14 protection of people. And it's ridiculous.

15 And I believe that the Reclamation Board, before
16 they do this new setback thing or any of that, ought to
17 find out from TRLIA how they're going to take care of it.
18 And I think the Reclamation Board has a responsibility to
19 see that those people that receive the gross protection of
20 more than one levee at least has to pay a bigger fee for
21 maintenance than the people that only are protected by one
22 levee.

23 And that Plumas Lake, no matter how you slice it,
24 dice it, or cut it, they are protected by four levees.
25 And they are in a pothole to begin with. And why should

1 the people on the Upper Yuba River pay the same value of
2 assessment as those people down there? And why should us
3 that never flooded, why should we even be in the survey?
4 That's what -- reason --

5 TRLIA SPECIAL COUNSEL SHAPIRO: Butch, I wonder if
6 I could provide a little context to --

7 VICE PRESIDENT HODGKINS: No. Because this is an
8 area -- the question of how TRLIA or 784 assesses property
9 owners for maintenance is not a Reclamation Board -- we
10 don't have the ability to deal with that, do we? Jay?

11 GENERAL MANAGER PUNIA: No.

12 VICE PRESIDENT HODGKINS: No. If you don't
13 believe -- if they won't respond to you, drag them into
14 court.

15 MS. HOFMAN: Excuse me. Why doesn't the
16 Reclamation Board, when they approve a project -- when you
17 approve the project, why don't you make them show how they
18 are going to maintain it?

19 Right now, today, if the people don't vote for it,
20 apparently, they can't even maintain this \$200 million
21 project they have already completed.

22 VICE PRESIDENT HODGKINS: Okay. The process is
23 that, as they move forward and build levees -- and I don't
24 know, right now, whether the commitment for maintenance in
25 the long run is TRLIA or 784. Which is it? Long run

1 maintenance of the levees?

2 TRLIA SPECIAL COUNSEL SHAPIRO: It depends on the
3 particular levee and the agreements that are in place with
4 the State, the Rec Board, and the encroachment permit
5 provisions. So it depends on the reach.

6 VICE PRESIDENT HODGKINS: Okay. So some are
7 TRLIA, some are 784, some are State.

8 TRLIA SPECIAL COUNSEL SHAPIRO: Correct.

9 VICE PRESIDENT HODGKINS: Okay.
10 I'm being told now that I can't go into this in
11 detail, because it isn't agendized by our attorney.

12 MS. HOFMAN: I understand that. What I brought it
13 up for, is so on this permit that's coming up, that you
14 don't -- that we don't get involved in paying for the
15 Feather River levee that's two levees away from us.

16 VICE PRESIDENT HODGKINS: What I will do is, we
17 will put on the agenda for our next meeting, not the issue
18 of whether their assessment is fair -- because that is not
19 an issue we have any jurisdiction over. And believe me,
20 we have plenty of issues to deal with without getting into
21 those kinds of issues. We would never get anything done
22 if we tried to make assessments all fair -- but at least
23 who's responsible for the maintenance of each levee, just
24 so I know the answer to that question.

25 And that's -- I cannot help you with challenging

1 the equity of your assessment. That's between you, your
2 attorney, them, their attorney, and their board.

3 MS. HOFMAN: Sir, the problem of it, so we're not
4 part of 784. We're not in 784.

5 VICE PRESIDENT HODGKINS: Then they can't send --
6 I'm not an attorney. Talk to an attorney. If you -- no.
7 No. I'm not going down this road. You have an attorney,
8 a very competent one.

9 MS. HOFMAN: Sir, that's not the reason I'm here.
10 It's to try to inform the Reclamation Board that you
11 missed a step in approving a permit. What is the use of
12 building these multimillion dollar levees when these
13 people don't have any idea how they are going to maintain
14 it? We don't even find out what's going to maintain it,
15 why, or what?

16 And all I'm saying is, when you go forward with
17 this other one, at least find out how you are going to
18 maintain it is we're not faced with the same problem
19 again.

20 That's all.

21 VICE PRESIDENT HODGKINS: Thank you.

22 MR. ARCHER: Mr. Vice President, you do have
23 authority to do anything you want to do in 784 or anywhere
24 in between those levees. Your authority pulls their
25 permits back. You gave them rules. I have the rules

1 here. They violated six of them. You gave them those
2 rules. They didn't follow those rules. You stated here
3 that you were going to address that today. So you have
4 all the authority in the world. You pull their permit.

5 VICE PRESIDENT HODGKINS: Thank you. Okay.

6 Anything else?

7 Yes, Paul.

8 TRLIA EXECUTIVE DIRECTOR BRUNNER: Well, as we
9 worked to build the responses, we are prepared to go
10 through a response today on the compliance. With that
11 being noted, we believe that we are in compliance with the
12 permits. Many of these issues that were raised here, from
13 members of the audience and from the Rec Board, we have
14 discussed at length, prior to Rec Board meetings.

15 The issue on the boulders has gone on for ad
16 nauseam on it. One of the experts for the Corps -- and I
17 trust the Corps in this area -- has come forward on the
18 boulder issue and spoke at length to your Rec Board
19 meeting the other day, several weeks ago, and said what we
20 did was fine. It was a good engineering solution, and it
21 would be certified as we moved forward.

22 So there are a lot of comments that are being made
23 that we would not agree with. And I want to make that
24 comment up front, to the members of the audience. And we
25 have solid good levees that we are building here, to move

1 forward in the future to keep the community safe.

2 TRLIA SPECIAL COUNSEL SHAPIRO: In order for us to
3 be able to respond in a pointed manner to the six or other
4 specific questions that have been raised, can we get on
5 agreement on what they are, so we can come back with very
6 specific answers to try to put this issue behind us?

7 VICE PRESIDENT HODGKINS: That's my intention.
8 Okay. All right. Thank you.

9 DR. SMITH: Could I just address that, because it
10 is very germane. My discussions with Colonel Light
11 concerns this. He was going to try to put together a
12 meeting that would include members of your staff, of the
13 Rec Board, TRLIA, and Concerned Citizens and Mr. Archer.

14 And I would ask that the Army Corps continue to go
15 through with that, and I think maybe some of these things
16 could get done. As I said earlier, we're seeking more
17 information. It isn't always clear; it's a very
18 complicated subject. So I think if -- and even if your
19 Board, you could push for that and say, "Look, we want to
20 have that happen. Then let's get together and make it
21 happen."

22 VICE PRESIDENT HODGKINS: Thank you. Any Corps'
23 representatives who --

24 MR. ELLIS: No noted.

25 VICE PRESIDENT HODGKINS: Anything else?

1 TRLIA SPECIAL COUNSEL SHAPIRO: Are you going to
2 go through the -- identifying the responses or will that
3 happen on March 9th?

4 VICE PRESIDENT HODGKINS: Am I going to do what?

5 TRLIA SPECIAL COUNSEL SHAPIRO: The specific
6 encroachment issues that have been raised, do you want
7 to -- do we want to confirm what they are now, or is that
8 conversation going to happen on March 9th?

9 VICE PRESIDENT HODGKINS: If you want to, why
10 don't you stick around, and we will make sure we
11 understand what they are. We need to clear the room here.
12 But in talking to these three gentleman. Okay?

13 I don't want to argue about them. I just want to
14 make sure I understand what they are. That's the nature
15 of the beast.

16 PRESIDENT CARTER: Can I comment?

17 VICE PRESIDENT HODGKINS: Sure.

18 PRESIDENT CARTER: I think, in general, some of
19 the things that I heard, with regard to the Bagley-Keene
20 violations, our counsel will respond to those in writing
21 to you, Dr. Smith, and whoever else wants to know about
22 that.

23 And so we will use this document that you provided
24 today, which you said had the Bagley-Keene violations as a
25 basis for a response.

1 Dr. Smith, you mentioned that -- as did
2 Mr. Archer, that Three Rivers Levee Improvement is working
3 beyond the authorized time of the permit, i.e. during a
4 time period when work is normally prohibited during the
5 winter months. That is one concern that you need to be
6 prepared to respond to.

7 You said you don't have confidence in the Corps.
8 I don't know that there's anything that the Rec Board can
9 do with response to restoring your confidence in the U.S.
10 Army Corps of Engineers. That's between you and the
11 Corps. That's not between us. And so any response to
12 that -- or the corollary was that the only way you were
13 going to be satisfied with regard to the Linda levee was
14 to remove the boulders and restore the levee without the
15 boulder repair. Okay?

16 That's a message for you guys. As well as us.

17 DR. SMITH: Could I just ask one clarification on
18 that one?

19 PRESIDENT CARTER: Let me finish, please.

20 DR. SMITH: Okay. Go ahead.

21 PRESIDENT CARTER: Mr. Foley, you said that Three
22 Rivers Levee Improvement Authority was not fit to
23 provide --

24 MR. FOLEY: Not qualified.

25 PRESIDENT CARTER: Not qualified to do the

1 necessary improvements to the levee for public safety
2 improvements to an urban area.

3 MR. FOLEY: Yes.

4 PRESIDENT CARTER: So noted.

5 Mr. Archer, you complained about all the promises
6 that TRLIA had made with regard to certifying the Linda
7 levee over the number of years and whatnot. All those
8 facts are true, undisputed, but we're trying to move
9 forward from there.

10 With regard to TRLIA not being truthful with the
11 Rec Board, it would be helpful if you could clarify
12 specifically the instances where they are not truthful to
13 the Rec Board, so that we can address those.

14 You also mentioned, as I said, the working during
15 the winter month prohibition period. I would sure like to
16 know where this cut into the Linda levee is, where it's
17 been left open to the elements. We'll address that at
18 some point.

19 The detention basin done without permits, that's
20 something that you and the Rec Board needs to respond to.

21 Seepage berm done after Mr. Archer pointed it out;
22 we can look into the timing of that. The important thing
23 is that it was done, and it's done and the area is
24 protected.

25 So those are the things that I heard in -- in the

1 three presentations. I don't know if you have anything
2 more to add to that. But those are things that we need to
3 have resolved and explanations. We need to move on from
4 all of this.

5 VICE PRESIDENT HODGKINS: I also heard the
6 question of working outside of certain time windows, which
7 I think we'll put it in writing from staff, not me.

8 Then I also heard, does the issuance of a permit
9 require completion of the work? And I think that's a
10 question we need to respond to as well. But I think
11 that's a Rec Board question.

12 PRESIDENT CARTER: Completion of work by a certain
13 time.

14 VICE PRESIDENT HODGKINS: I guess that's -- yeah.

15 PRESIDENT CARTER: Or is it completion of work and
16 completion by a certain time?

17 VICE PRESIDENT HODGKINS: I think it's both.

18 PRESIDENT CARTER: Okay. So we need to have
19 answers from our staff and counsel on both those issues.

20 MR. FOLEY: Yes, I brought it up at the December
21 meeting. And I think it's still very appropriate. There
22 was a team from University of California, went down,
23 published a report on the failings of the Army Corps and
24 what caused Katrina. They are called Independent Levee
25 Investigations Unit. And I suggested -- it's in the

1 transcripts, from December. I asked a third party to take
2 a look at this. They have a very powerful report. It's a
3 published report of the failing Corps practices.

4 VICE PRESIDENT HODGKINS: Noted.

5 DR. SMITH: I would like to respond. In our
6 letter and in the presentation to your Board, in January,
7 we presented a series of pictures. I will leave it with
8 you today, Mr. President, and it shows clearly how the
9 levee has been cut into.

10 And also we had pictures of when the levee was
11 pushed back up again, during the period of time, recently,
12 when it was not permitted, and already, that levee pushed
13 up that dirt. It's being cut under and being taken down.
14 And you see these gullies that are in here. So much for
15 the sand berm.

16 Also in this period of time, they were out there
17 with a big unit that put all kinds of green stuff that's
18 supposed to bring grass and everything else. Oh, boy.
19 Guess what happened to that? First rain and it's all down
20 in the bottom. So there's all the evidence. It's already
21 in your records. But I will give it to you today too.

22 PRESIDENT CARTER: Thank you.

23 TRLIA SPECIAL COUNSEL SHAPIRO: Can you summarize
24 that one? I'm not sure what we are supposed to respond to
25 that one. Is there a response from us required on that

1 one?

2 VICE PRESIDENT HODGKINS: I think what I heard is
3 that there was work in the levee during the period when
4 work in the levee wasn't permitted, that it was repaired
5 without proper care being given to it, and that it is now
6 washing out.

7 MR. ARCHER: That was seed. There was a seed
8 machine throwing.

9 PRESIDENT CARTER: Hydroseeder.

10 MR. ARCHER: Yes, so that was there. That was
11 during that time.

12 The levee cut itself is still there for anyone to
13 see.

14 Dan Fua and I talked. He said he was told to take
15 a picture of that. You have a picture somewhere. Dan Fua
16 works for you. That is open now. It's like an open sore
17 on your hand, when you do this. It sets east to west,
18 this cut does. And the rain comes from the south and hits
19 that levee, where it's cut open. I was over there last
20 Wednesday.

21 And this got an area that big around, eroding out
22 already, on the land side, where the sand berm was. Now,
23 they cut that trench probably putting in that sand berm,
24 back in 2004, or since, when they tried to beef it up a
25 little bit more or something.

1 Nonetheless, if they leave something like that
2 sitting there, that's a direct violation and we can't --
3 Mr. President Carter, we cannot move forward from these
4 violations, President. Because we need to handle them.
5 There are sitting here. You need to address, especially
6 that one.

7 Yes? Go ahead.

8 PRESIDENT CARTER: My point, Mr. Archer, was that
9 we need to settle these things and move on. My point was
10 not to sweep them under the carpet and move on. So we
11 will address them, and then we will move on. But that
12 requires that you move on as well as us. Okay? When it's
13 asked and it's answered, then we all need to move on; we
14 need to get beyond this.

15 MR. ARCHER: I will move on when that levee is
16 fixed properly. Because I have lived there 47 years in
17 the same place, less than a mile from there. And I have
18 been flooded by that levee. And here, we're trying to get
19 200-year levees so they can put more houses in Plumas Lake
20 and around, which means nothing to me except, when that
21 levee breaks, there's just going to be that many more
22 people under 17 feet of water.

23 SECRETARY DOHERTY: Where is the cut in the levee?

24 MR. ARCHER: The cut -- Lady Bug, you know, where
25 the --

1 SECRETARY DOHERTY: The retention basin?

2 MR. ARCHER: Yes. Directly north of that, on this
3 land side levee, down just before the 200-foot -- the sand
4 berm runs 90 feet, and then it goes into 200 feet or
5 whatever.

6 SECRETARY DOHERTY: Right.

7 MR. ARCHER: Just prior to the 200 feet, you can
8 drive in there --

9 SECRETARY DOHERTY: I have been out there, but I
10 haven't seen this.

11 GENERAL MANAGER PUNIA: Maybe I can -- the staff
12 has inspected this -- the cut Mr. Archer is referencing
13 to. The driver, I think -- the person who build the berm,
14 he scraped the levee, and I think we noted and we are
15 going to ask the TRLIA to fix it.

16 It's -- I agree with Mr. Rex Archer that it needs
17 to be fixed. But it's not a major, major concern at this
18 time. But it needs to be addressed. And we noted in the
19 field, and we are going to ask the TRLIA to fix it as soon
20 as possible. It's on the land side of the berm.

21 MR. ARCHER: I thank you, sir, but it could very
22 well could be a major problem. We have no control over
23 the next four days of rain or what's going to happen. And
24 when it eats through there, you're going to see crews in
25 there trying to put it back.

1 GENERAL MANAGER PUNIA: Yeah. I think that we
2 will work with the Three Rivers Levee Authority to fix it
3 right away. He scraped the levee, the person who was
4 doing the construction, and it shouldn't be there. But
5 it's there and needs to be addressed as soon as possible.

6 MR. ARCHER: Sir, they knew it was there. They
7 have permitted it to be there. I am the only one speaking
8 to fix it. They are not going to fix it. They want to
9 move on to Feather River. They want to leave the Linda
10 levee completed as they have stated six different times,
11 but yet it's not completed.

12 The Corps of Engineers are sitting right there.
13 They are not going to certify that levee, he told you.
14 They will put it off. Next year, April, we'll be talking
15 about it. They are not going to certify it until that
16 levee is properly fixed. And that levee controls all the
17 water all the way to Plumas Lake. If it breaks, everybody
18 gets wet. Everybody.

19 TRLIA EXECUTIVE DIRECTOR BRUNNER: We have not
20 ignored the Yuba River levee, and I'm not aware of the
21 scrape. If there's a scrape, we will fix the scrape.

22 TRLIA SPECIAL COUNSEL SHAPIRO: You haven't
23 previously sent us anything on the scrape.

24 GENERAL MANAGER PUNIA: We recently visited the
25 site, and we saw this, and we took pictures, and we're

1 planning on coordinating it with you so that it can be
2 fixed.

3 TRLIA SPECIAL COUNSEL SHAPIRO: Thank you.

4 PRESIDENT CARTER: So are you clear what you need
5 to respond to?

6 TRLIA SPECIAL COUNSEL SHAPIRO: Yeah. Everything
7 you said, I wrote down. And we'll have a slide for each
8 of them that will say either we'll do it or what our
9 response is.

10 Thank you.

11 VICE PRESIDENT HODGKINS: Other comments or
12 questions?

13 Thank you all very much. We'll see you in a week
14 or two, whatever it is.

15 (The Reclamation Board TRLIA Subcommittee

16 Meeting adjourned at 12:55 a.m.)

17

18

19

20

21

22

23

24

25

1 CERTIFICATE OF REPORTER

2 I, KATHRYN S. KENYON, a Certified Shorthand Reporter
3 of the State of California, do hereby certify:

4 That I am a disinterested person herein; that the
5 foregoing Reclamation Board TRLIA Subcommittee Meeting was
6 reported in shorthand by me, Kathryn S. Kenyon, a
7 Certified Shorthand Reporter of the State of California,
8 and thereafter transcribed into typewriting.

9 I further certify that I am not of counsel or
10 attorney for any of the parties to said meeting nor in any
11 way interested in the outcome of said meeting.

12 IN WITNESS WHEREOF, I have hereunto set my hand this
13 8th day of March, 2007.

14

15

16

17

18

19

20

21

22 KATHRYN S. KENYON, CSR

23 Certified Shorthand Reporter

24 License No. 13061

25